

By the Committee on Banking and Insurance; and Senator Meek

311-2092-99

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A bill to be entitled
An act relating to health insurance; amending
s. 627.410, F.S.; modifying rate filing
requirements for approval of health insurance
policy forms by the Department of Insurance;
amending s. 627.411, F.S.; providing guidelines
for determining when benefits are considered
reasonable in relation to the premium charged
for purposes of disapproval of health insurance
policy forms by the department; providing an
effective date.

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

Section 1. Subsections (1), (6), (7), and (8) of
section 627.410, Florida Statutes, 1998 Supplement, are
amended to read:

627.410 Filing, approval of forms.--

(1) No basic insurance policy or annuity contract
form, or application form where written application is
required and is to be made a part of the policy or contract,
or group certificates issued under a master contract delivered
in this state, or printed rider or endorsement form or form of
renewal certificate, shall be delivered or issued for delivery
in this state, unless the form has been filed with the
department at its offices in Tallahassee by or in behalf of
the insurer which proposes to use such form and has been
approved by the department. This provision does not apply to
surety bonds or to policies, riders, endorsements, or forms of
unique character which are designed for and used with relation
to insurance upon a particular subject (other than as to

1 individual or small group health insurance), or which relate
2 to the manner of distribution of benefits or to the
3 reservation of rights and benefits under life or health
4 insurance policies and are used at the request of the
5 individual policyholder, contract holder, or
6 certificateholder. As to group insurance policies effectuated
7 and delivered outside this state but covering persons resident
8 in this state, the group certificates to be delivered or
9 issued for delivery in this state shall be filed with the
10 department for information purposes only.

11 (6)(a) An insurer shall not deliver or issue for
12 delivery or renew in this state any health insurance policy
13 form until it has filed with the department a copy of every
14 applicable rating manual, rating schedule, change in rating
15 manual, and change in rating schedule; if rating manuals and
16 rating schedules are not applicable, the insurer must file
17 with the department applicable premium rates and any change in
18 applicable premium rates. This paragraph does not apply to
19 rating manuals, rating schedules, or changes in rating manuals
20 or schedules, or, if rating manuals or schedules are not
21 applicable, to premium rates or changes in such rates,
22 relating to policies, riders, endorsements, or forms of unique
23 character which are designed for any use with relation to
24 insurance upon a particular subject or to benefits under group
25 health insurance policies insuring 51 or more persons and are
26 used at the request of the individual policyholder, contract
27 holder, or certificateholder.

28 (b) The department may establish by rule, for each
29 type of health insurance form, procedures to be used in
30 ascertaining the reasonableness of benefits in relation to
31 premium rates and may, by rule, exempt from any requirement of

1 paragraph (a) any health insurance policy form or type thereof
2 (as specified in such rule) to which form or type such
3 requirements may not be practically applied or to which form
4 or type the application of such requirements is not desirable
5 or necessary for the protection of the public. With respect to
6 any health insurance policy form or type thereof which is
7 exempted by rule from any requirement of paragraph (a),
8 premium rates filed pursuant to ss. 627.640 and 627.662 shall
9 be for informational purposes.

10 (c) Every filing made pursuant to this subsection
11 shall be made within the same time period provided in, and
12 shall be deemed to be approved under the same conditions as
13 those provided in, subsection (2).

14 (d) Every filing made pursuant to this subsection,
15 except disability income policies and accidental death
16 policies, shall be prohibited from applying the following
17 rating practices:

18 1. Select and ultimate premium schedules.

19 2. Premium class definitions which classify insured
20 based on year of issue or duration since issue.

21 3. Attained age premium structures on policy forms
22 under which more than 50 percent of the policies are issued to
23 persons age 65 or over.

24 ~~(e) Except as provided in subparagraph 1., an insurer~~
25 ~~shall continue to make available for purchase any individual~~
26 ~~policy form issued on or after October 1, 1993. A policy form~~
27 ~~shall not be considered to be available for purchase unless~~
28 ~~the insurer has actively offered it for sale in the previous~~
29 ~~12 months.~~

30 1. An insurer may discontinue the availability of a
31 policy form if the insurer provides to the department in

1 writing its decision at least 30 days prior to discontinuing
2 the availability of the form of the policy or certificate.
3 After receipt of the notice by the department, the insurer
4 shall no longer offer for sale the policy form or certificate
5 form in this state.

6 ~~2. An insurer that discontinues the availability of a~~
7 ~~policy form pursuant to subparagraph 1. shall not file for~~
8 ~~approval a new policy form providing similar benefits as the~~
9 ~~discontinued form for a period of 5 years after the insurer~~
10 ~~provides notice to the department of the discontinuance. The~~
11 ~~period of discontinuance may be reduced if the department~~
12 ~~determines that a shorter period is appropriate.~~

13 2.3. The experience of an individual accident and
14 health insurance all policy form that is no longer being
15 marketed in this state, except for policies rated pursuant to
16 a loss ratio guarantee under subsection (8), must be combined
17 with the experience of at least one other individual accident
18 and health insurance policy form forms providing similar
19 benefits, as determined by the insurer, which is still being
20 marketed in the state by the same insurer, unless the insurer
21 has no other policy form providing similar benefits, as
22 determined by the insurer, which is still being marketed in
23 the state shall be combined for all rating purposes.

24 (7)(a) Each insurer subject to the requirements of
25 subsection (6) shall make an annual filing with the department
26 no later than 12 months after its previous filing,
27 establishing ~~demonstrating~~ the reasonableness of benefits in
28 relation to premium rates. The department, after receiving a
29 request to be exempted from the provisions of this section,
30 may, for good cause due to insignificant numbers of policies
31 in force or insignificant premium volume, exempt a company, by

1 line of coverage, from filing rates or rate certification as
2 required by this section.

3 (b) The filing required by this subsection shall be
4 satisfied by one of the following methods:

5 1. A rate filing prepared by an actuary which contains
6 documentation establishing ~~demonstrating~~ the reasonableness of
7 benefits in relation to premiums charged ~~in accordance with~~
8 ~~the applicable rating laws and rules promulgated by the~~
9 ~~department.~~ For premium rate changes, benefits will be
10 considered reasonable in relation to premium charged if both
11 of the following loss ratios meet or exceed the standards
12 established in s. 627.411(2).

13 a. The anticipated loss ratio over the entire future
14 period for which the revised rates are computed to provide
15 coverage; and

16 b. The following lifetime anticipated loss ratio
17 derived by dividing (I) by (II):

18 (I) The sum of the accumulated benefits from the
19 original effective date of the form to the effective date of
20 the revision, and the present value of future benefits; and

21 (II) The sum of the accumulated premiums from the
22 original effective date of the form to the effective date of
23 the revision, and the present value of future premiums, such
24 present values to be taken over the entire period for which
25 the revised rates are computed to provide coverage, and such
26 accumulated benefits and premiums to include an explicit
27 estimate of actual benefits and premiums from the last date an
28 accounting has been made to the effective date of the
29 revision.

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1 Interest must be used in the calculation of these accumulated
2 benefits and premiums and present values only if it is a
3 significant factor, as determined by the insurer, in the
4 calculation of the loss ratio. For purposes of this
5 sub-subparagraph, the present value of benefits may, at the
6 insurer's option, include recognition of the policy reserve as
7 a benefit (addition), and the present value of premiums may,
8 at the insurer's option, include recognition of the policy
9 reserve as a deduction. Anticipated loss ratios lower than
10 those indicated in this sub-subparagraph will require
11 justification based on applicable special circumstances.
12 Examples of coverages that may require special consideration
13 are accident only, short-term nonrenewable, specified peril,
14 and other special risks. Examples of other factors that may
15 require special consideration are marketing methods; giving
16 due consideration to acquisition and administration costs and
17 premium mode; extraordinary expenses; high risk of claims
18 fluctuation because of low loss frequency or the catastrophic
19 or experimental nature of the coverage; product features such
20 as long elimination periods, high deductibles, and high
21 maximum limits; and the industrial or debit method of
22 distribution.

23 2. If no rate change is proposed, a filing which
24 consists of a certification by an actuary that benefits are
25 reasonable in relation to premiums currently charged in
26 accordance with the loss ratio standards established in this
27 subsection and s. 627.411(2)~~applicable laws and rules~~
28 ~~promulgated by the department.~~

29 (c) As used in this section, the term "actuary" means
30 an individual who is a member of the Society of Actuaries or
31 the American Academy of Actuaries. If an insurer does not

1 employ or otherwise retain the services of an actuary, the
2 insurer's certification shall be prepared by insurer personnel
3 or consultants with a minimum of 5 years' experience in
4 insurance ratemaking. The chief executive officer of the
5 insurer shall review and sign the certification indicating his
6 or her agreement with its conclusions.

7 (d) If at the time a filing is required under this
8 section an insurer is in the process of completing a rate
9 review, the insurer may apply to the department for an
10 extension of up to an additional 30 days in which to make the
11 filing. The request for extension must be received by the
12 department in its offices in Tallahassee no later than the
13 date the filing is due.

14 (e) If an insurer fails to meet the filing
15 requirements of this subsection and does not submit the filing
16 within 60 days following the date the filing is due, the
17 department may, in addition to any other penalty authorized by
18 law, order the insurer to discontinue the issuance of policies
19 for which the required filing was not made, until such time as
20 the department determines that the required filing is properly
21 submitted.

22 (8)(a) For the purposes of subsections (6) and (7) and
23 s. 627.411, benefits of an individual accident and health
24 insurance policy form, including Medicare supplement policies
25 as defined in s. 627.672, ~~when authorized by rules adopted by~~
26 ~~the department~~, and excluding long-term care insurance
27 policies as defined in s. 627.9404, and other policy forms
28 under which more than 50 percent of the policies are issued to
29 individuals age 65 and over, are deemed to comply with the
30 provisions of subsections (6) and (7) and s. 627.411 ~~to be~~
31 ~~reasonable in relation to premium rates~~ if the rates are filed

1 pursuant to a loss ratio guarantee and both the initial rates
2 and the durational and lifetime loss ratios have been approved
3 by the department, and such benefits shall continue to be
4 deemed reasonable for renewal rates while the insurer complies
5 with such guarantee, provided the currently expected lifetime
6 loss ratio is not more than 5 percent less than the filed
7 lifetime loss ratio as certified to by an actuary. The
8 department shall have the right to bring an administrative
9 action should it deem that the lifetime loss ratio will not be
10 met. For Medicare supplement filings, the department may
11 withdraw a previously approved filing which was made pursuant
12 to a loss ratio guarantee if it determines that the filing is
13 not in compliance with ss. 627.671-627.675 or the currently
14 expected lifetime loss ratio is less than the filed lifetime
15 loss ratio as certified by an actuary in the initial
16 guaranteed loss ratio filing. If this section conflicts with
17 ss. 627.671-627.675, ss. 627.671-627.675 shall control.

18 (b) The renewal premium rates shall be deemed to be
19 approved upon filing with the department if the filing is
20 accompanied by the most current approved loss ratio guarantee.
21 The loss ratio guarantee shall be in writing, shall be signed
22 by an officer of the insurer, and shall contain at least:

23 1. A recitation of the anticipated lifetime and
24 durational target loss ratios contained in the actuarial
25 memorandum filed with the policy form when it was originally
26 approved. The durational target loss ratios shall be
27 calculated for 1-year experience periods. If statutory
28 changes have rendered any portion of such actuarial memorandum
29 obsolete, the loss ratio guarantee shall also include an
30 amendment to the actuarial memorandum reflecting current law
31 and containing new lifetime and durational loss ratio targets.

1 2. A guarantee that the applicable loss ratios for the
2 experience period in which the new rates will take effect, and
3 for each experience period thereafter until new rates are
4 filed, will meet the loss ratios referred to in subparagraph
5 1.

6 3. A guarantee that the applicable loss ratio results
7 for the experience period will be independently audited at the
8 insurer's expense. The audit shall be performed in the second
9 calendar quarter of the year following the end of the
10 experience period, and the audited results shall be reported
11 to the department no later than the end of such quarter. The
12 department shall establish by rule the minimum information
13 reasonably necessary to be included in the report. The audit
14 shall be done in accordance with accepted accounting and
15 actuarial principles.

16 4. A guarantee that affected policyholders in this
17 state shall be issued a proportional refund, based on the
18 premium earned, of the amount necessary to bring the
19 applicable experience period loss ratio up to the durational
20 target loss ratio referred to in subparagraph 1. The refund
21 shall be made to all policyholders in this state who are
22 insured under the applicable policy form as of the last day of
23 the experience period, except that no refund need be made to a
24 policyholder in an amount less than \$10. Refunds less than \$10
25 shall be aggregated and paid pro rata to the policyholders
26 receiving refunds. The refund shall include interest at the
27 then-current variable loan interest rate for life insurance
28 policies established by the National Association of Insurance
29 Commissioners, from the end of the experience period until the
30 date of payment. Payments shall be made during the third
31 calendar quarter of the year following the experience period

1 for which a refund is determined to be due. However, no
2 refunds shall be made until 60 days after the filing of the
3 audit report in order that the department has adequate time to
4 review the report.

5 5. A guarantee that if the applicable loss ratio
6 exceeds the durational target loss ratio for that experience
7 period by more than 20 percent, provided there are at least
8 2,000 policyholders on the form nationwide or, if not, then
9 accumulated each calendar year until 2,000 policyholder years
10 is reached, the insurer, if directed by the department, shall
11 withdraw the policy form for the purposes of issuing new
12 policies.

13 (c) As used in this subsection, the term:

14 1. "Loss ratio" means the ratio of incurred claims to
15 earned premium.

16 2. "Applicable loss ratio" means the loss ratio
17 attributable solely to this state if there are 2,000 or more
18 policyholders in the state. If there are 500 or more
19 policyholders in this state but less than 2,000, it is the
20 linear interpolation of the nationwide loss ratio and the loss
21 ratio for this state. If there are less than 500
22 policyholders in this state, it is the nationwide loss ratio;
23 however, if there are less than 2,000 policyholder years
24 nationwide, the experience must be accumulated until the end
25 of the calendar year in which 2,000 policyholder years are
26 obtained.

27 3. "Experience period" means the period, ordinarily a
28 calendar year, for which a loss ratio guarantee is calculated.

29 (d) The department may not disapprove or withdraw any
30 previous approval of any individual accident and health

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1 insurance form pursuant to s. 627.411(1)(e) if rates have been
2 filed as provided in this subsection.

3 Section 2. Section 627.411, Florida Statutes, is
4 amended to read:

5 627.411 Grounds for disapproval.--

6 (1) The department shall disapprove any insurance
7 policy form that must be filed under s. 627.410, or withdraw
8 any previous approval thereof, only if the form:

9 (a) Is in any respect in violation of, or does not
10 comply with, this code.

11 (b) Contains or incorporates by reference, where such
12 incorporation is otherwise permissible, any inconsistent,
13 ambiguous, or misleading clauses, or exceptions and conditions
14 which deceptively affect the risk purported to be assumed in
15 the general coverage of the contract.

16 (c) Has any title, heading, or other indication of its
17 provisions which is misleading.

18 (d) Is printed or otherwise reproduced in such manner
19 as to render any material provision of the form substantially
20 illegible.

21 (e) Is for health insurance, and provides benefits
22 which are unreasonable in relation to the premium charged or,
23 contains provisions that ~~which are unfair or inequitable or~~
24 ~~contrary to the public policy of this state or which encourage~~
25 ~~misrepresentation, or which apply rating practices which~~
26 ~~result in premium escalations that are not viable for the~~
27 ~~policyholder market or result in unfair discrimination in~~
28 ~~sales practices.~~

29 (f) Excludes coverage for human immunodeficiency virus
30 infection or acquired immune deficiency syndrome or contains
31 limitations in the benefits payable, or in the terms or

1 conditions of such contract, for human immunodeficiency virus
2 infection or acquired immune deficiency syndrome which are
3 different than those which apply to any other sickness or
4 medical condition.

5 (2) ~~In determining whether the Benefits are considered~~
6 reasonable in relation to the premium charged if premium rates
7 are neither excessive nor inadequate, ~~the department, in~~
8 ~~accordance with reasonable actuarial techniques, shall~~
9 ~~consider:~~

10 ~~(a) Past loss experience and prospective loss~~
11 ~~experience within and without this state.~~

12 ~~(b) Allocation of expenses.~~

13 ~~(c) Risk and contingency margins, along with~~
14 ~~justification of such margins.~~

15 ~~(d) Acquisition costs.~~

16 (a) Premium rates are not excessive if the insurer
17 demonstrates, in accordance with generally accepted standards
18 of actuarial practice, satisfaction of the following minimum
19 anticipated loss ratios.

20 1. Loss Ratio Table, Individual Policies for the Line
21 of Business Indicated.--

22 a. Medical Expenses.--

23 <u>Renewal Clause</u>	<u>Loss Ratio</u>
24 <u>Noncancelable</u>	<u>55 percent</u>
25 <u>Nonrenewable</u>	<u>60 percent</u>
26 <u>Guaranteed Renewable</u>	<u>65 percent</u>
27 <u>All others</u>	<u>70 percent</u>

28 b. Medical Indemnity, Loss of Income.--

29 <u>Renewal Clause</u>	<u>Loss Ratio</u>
30 <u>Noncancelable</u>	<u>50 percent</u>
31 <u>Nonrenewable</u>	<u>55 percent</u>

1	<u>Guaranteed Renewable</u>	<u>60 percent</u>
2	<u>All others</u>	<u>65 percent</u>
3	<u>2. Loss Ratio Table, Group Policies.--</u>	
4	<u>a. Group Medical Expense.--</u>	
5	<u>Group Size</u>	<u>Loss Ratio</u>
6	<u>Fewer than 51 certificates</u>	<u>65 percent</u>
7	<u>51 through 500 certificates</u>	<u>70 percent</u>
8	<u>All others</u>	<u>75 percent</u>
9	<u>b. Group Medical Indemnity or Any Group Policy with</u>	
10	<u>and Average Annual Premium per Certificate of Less Than</u>	
11	<u>\$1,000.--</u>	
12	<u>Group Size</u>	<u>Loss Ratio</u>
13	<u>Fewer than 51 certificates</u>	<u>57.5 percent</u>
14	<u>51 through 500 certificates</u>	<u>62.5 percent</u>
15	<u>All others</u>	<u>67.5 percent</u>
16	<u>3. Group conversion insurance, other than</u>	
17	<u>long-term-care insurance and Medicare supplement insurance,</u>	
18	<u>issued on either a group or an individual basis, shall have a</u>	
19	<u>loss ratio of not less than 120 percent, subject to the limits</u>	
20	<u>described in s. 627.6675.</u>	
21	<u>4. Blanket insurance is exempt from the loss ratios</u>	
22	<u>described in subparagraphs 1.-3. The minimum loss ratio for</u>	
23	<u>blanket insurance is 65 percent.</u>	
24	<u>5. Medicare supplement and long-term-care insurance</u>	
25	<u>are exempt from the loss ratios described in subparagraphs</u>	
26	<u>1.-3. The minimum loss ratios for Medicare supplement</u>	
27	<u>insurance must be established in accordance with s. 627.674.</u>	
28	<u>The minimum loss ratios for long-term-care insurance must be</u>	
29	<u>established in accordance with s. 627.9407.</u>	
30	<u>(b) Premium rates are not inadequate if the insurer</u>	
31	<u>demonstrates, in accordance with generally accepted standards</u>	

1 of actuarial practice, that the sum of premium income and
2 investment income, minus the sum of benefit payments,
3 expenses, taxes, and contingency margins is greater than zero.

4 Section 3. This act shall take effect July 1, 1999.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1576

9 Exempts from the rate filing requirements group health
10 insurance policies if the policy forms to which the rate
11 applies are of "unique character" for benefits under group
12 health insurance policies insuring 51 or more persons and
13 rates are used at the request of the individual policyholder
14 or certificateholder.

15 Retains the current law's prohibition against health insurers
16 using a rating practice that classifies insureds based on year
17 of issue or duration since issue.
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