

By the Committee on Health Care Services and
Representatives C. Green, Jones, Peaden, Fasano, Maygarden,
Wise, Fuller, Farkas and Jacobs

1 A bill to be entitled
2 An act relating to health care; creating the
3 Florida Health Endowment Association; providing
4 for appointment of a board of directors;
5 providing a limitation on the liability of
6 members, employees of the association, and
7 representatives of the Agency for Health Care
8 Administration when performing responsibilities
9 of the association; providing for open
10 meetings; prescribing duties of the board of
11 directors; requiring a plan of operation;
12 requiring procedures for transition of
13 policyholders from the Florida Comprehensive
14 Health Association to the Florida Health
15 Endowment Association; providing rulemaking
16 authority; specifying mandatory and
17 discretionary powers of the board; requiring an
18 audit and report; providing definitions;
19 providing eligibility requirements for persons
20 who seek to join the new health endowment
21 insurance plan; specifying coverages and
22 limitations on coverages as a condition of a
23 person's eligibility; providing for the
24 selection, term of service, and duties of the
25 administrator for the association; providing
26 coverages, benefits, expenses, premiums, and
27 deductibles; authorizing the association to
28 contract with insurers to provide
29 disease-management services; providing
30 conditions; requiring individuals having
31 coverage issued by the Florida Comprehensive

1 Health Association to be issued coverage by the
2 Florida Health Endowment Association; requiring
3 the Florida Health Endowment Association to
4 assume the assets and liabilities of the
5 Florida Comprehensive Health Association;
6 repealing s. 627.648, F.S., relating to the
7 Florida Comprehensive Health Association Act;
8 repealing s. 627.6482, F.S., relating to
9 definitions; repealing s. 627.6484, F.S.,
10 relating to termination of enrollment;
11 repealing s. 627.6486, F.S., relating to
12 eligibility; repealing s. 627.6488, F.S.,
13 relating to the creation of the Florida
14 Comprehensive Health Association; repealing s.
15 627.6489, F.S., relating to the
16 disease-management program; repealing s.
17 627.649, F.S., relating to the administrator of
18 the program; repealing s. 627.6496, F.S.,
19 relating to issuance of policies; repealing s.
20 627.6498, F.S., relating to minimum benefits;
21 repealing s. 627.6492, F.S., relating to
22 participation of insurers; repealing s.
23 627.6494, F.S., relating to assessments;
24 providing an appropriation to the Florida
25 Health Endowment Association Trust Fund;
26 providing an effective date.

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

29
30 Section 1. Florida Health Endowment Association.--
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1 (1) There is created a nonprofit legal corporation to
2 be known as the "Florida Health Endowment Association." The
3 association shall be considered a health insurer for purposes
4 of the Florida Insurance Code. The association is exempt from
5 the certificate-of-authority and financial requirements of the
6 insurance code.

7 (2)(a) The association shall operate subject to the
8 supervision and approval of a five-member board of directors.
9 The board of directors shall consist of:

10 1. The director of the Agency for Health Care
11 Administration, or his or her designee, who shall serve as
12 chair of the board.

13 2. The Insurance Commissioner, or his or her designee
14 from the Department of Insurance.

15 3. Three members appointed by the Governor as follows:

16 a. One representative of policyholders who is not
17 associated with the medical profession or a hospital.

18 b. One representative of the health insurance
19 industry.

20 c. One member of the public.

21 (b) The administrator for the association, or his or
22 her affiliate, may not be a member of the board. Any appointed
23 board member may be removed and replaced by his or her
24 appointor at any time without cause.

25 (c) All appointed board members, including the chair,
26 shall be appointed to staggered 3-year terms beginning on a
27 date established in the plan of operation.

28 (d) The board of directors may employ persons to
29 perform the administrative and financial transactions and
30 responsibilities of the association and to perform other
31 necessary functions not prohibited by law.

1 (e) The members of the board shall serve without
2 compensation for such service, but are entitled to be
3 reimbursed for expenses incurred in carrying out their
4 responsibilities under this act, as provided in s. 112.061,
5 Florida Statutes.

6 (f) There is no liability on the part of, and no cause
7 of action of any nature shall arise against, any employee of
8 the association, member of the board of directors of the
9 association, or representative of the Agency for Health Care
10 Administration for any act or omission taken by such person in
11 the performance of his or her powers and duties under this
12 act, unless the act or omission is committed with intentional
13 disregard of the rights of the claimant.

14 (g) Meetings of the board are subject to s. 286.011,
15 Florida Statutes.

16 (3) The board of directors of the association shall:

17 (a) Adopt a plan of operation, articles, bylaws, and
18 operating rules pursuant to this act and submit the plan of
19 operation to the Agency for Health Care Administration for
20 approval. The plan of operation, articles, bylaws, and
21 operating rules of the Florida Comprehensive Health
22 Association, and any amendments thereto, shall remain in
23 effect until the Agency for Health Care Administration has
24 approved the Florida Health Endowment Association's plan of
25 operation.

26 (b) Direct the association in a manner that ensures
27 that the financial resources of the association are adequate
28 to meet the obligations of the program.

29 (c) Establish administrative and accounting procedures
30 for the operation of the association and provide for an annual
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1 audit of the financial statements by an independent certified
2 public accountant.

3 (d) Annually evaluate or cause to be evaluated the
4 actuarial soundness of the association. The association shall
5 contract with an actuary to evaluate the pool of insureds in
6 the association and monitor the financial condition of the
7 Florida Health Endowment Trust Fund. The actuary shall
8 determine the feasibility of enrolling new members in the
9 association, which must be based on the projected revenues and
10 expenses of the association.

11 (e) Establish eligibility requirements for individuals
12 participating in the association to ensure that the financial
13 resources of the association are adequate to meet the
14 obligations and are consistent with the actuarial
15 determination pursuant to paragraph (d) and with the
16 eligibility requirements of section 3.

17 (f) Establish procedures under which members in the
18 association may have grievances reviewed internally by an
19 impartial body and reported to the association. Individuals
20 receiving care through the association under contract from a
21 health maintenance organization must follow the grievance
22 procedures established in ss. 408.7056 and 641.31(5), Florida
23 Statutes.

24 (g) Select an administrator.

25 (h) Develop and implement a program to publicize the
26 existence of the association, the eligibility requirements,
27 and the procedures for enrollment.

28 (i) Design and employ cost-containment measures and
29 requirements that shall include preadmission certification,
30 any out-of-state health care, home health care, hospice care,
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1 negotiated purchase of medical and pharmaceutical supplies,
2 and individual case management.

3 (j) Contract with authorized insurers, health
4 maintenance organizations, or health care providers.

5 (k) Use a case manager or managers to supervise and
6 manage the medical care or coordinate the supervision and
7 management of the medical care of specified individuals. A
8 case manager, with the approval of the association, shall have
9 final approval over the case management for any specific
10 individual. If cost-effective and available in the county
11 where the policyholder resides, the association, upon
12 application or renewal of a policy, may place an individual,
13 as established under section 5, with a case manager, who shall
14 determine the most cost-effective quality care system or
15 health care provider and shall place the individual in such
16 system or with such health care provider. Prior to and during
17 the implementation of case management, the case manager shall
18 obtain input from the policyholder, parent, guardian, and
19 health care providers.

20 (l) Appoint an executive director to serve as the
21 chief administrative and operational officer of the
22 association and perform other duties assigned to him or her by
23 the board.

24 (m) Establish in the plan of operation procedures for
25 the transition of policyholders from the Florida Comprehensive
26 Health Association to the association.

27 1. The plan of operation must include procedures for
28 calculating, issuing, and collecting the final assessment for
29 operating losses of the Florida Comprehensive Health
30 Association as specified in s. 627.6488(4)(d), Florida
31 Statutes.

1 2. The plan of operation must ensure that remaining
2 Florida Comprehensive Health Association policyholders,
3 including those currently enrolled in Medicare, will not be
4 subjected to a new preexisting condition waiting period and
5 that any previous claims paid by the Florida Comprehensive
6 Health Association will apply towards the lifetime maximum
7 benefit available in the Florida Health Endowment Association.

8 (n) Contract with the State Board of Administration
9 for the investment of the funds held in the Florida Health
10 Endowment Trust Fund in accordance with a trust agreement
11 entered into by the association and the State Board of
12 Administration in accordance with ss. 215.44-215.53, Florida
13 Statutes.

14 (o) Submit a report to the Governor, the President of
15 the Senate, the Speaker of the House of Representatives, and
16 the Minority Leaders of the Senate and the House of
17 Representatives not later than October 1 of each year. The
18 report shall summarize the activities of the association for
19 the 12-month period ending December 31 of the previous year,
20 including then-current data and estimates as to premiums, the
21 expense of administration, the paid and incurred losses for
22 the year, and the financial status of the Florida Health
23 Endowment Trust Fund, and any recommendations by the actuary
24 and actions by the association for the opening or closing of
25 the association. The report shall also include analysis and
26 recommendations for legislative changes regarding utilization
27 review, quality assurance, an evaluation of the administrator
28 of the association, access to cost-effective health care, and
29 cost containment or case management policy and recommendations
30 concerning enrollment.

31 (4) The association may:

- 1 (a) Sue or be sued.
- 2 (b) Prepare or contract for an independent performance
3 audit of the administrator of the association.
- 4 (c) Invest funds not required for immediate
5 disbursement.
- 6 (d) Appear on its own behalf before boards,
7 commissions, or other governmental agencies.
- 8 (e) Execute, hold, buy, and sell any instruments,
9 obligations, securities, and property as determined
10 appropriate by the board.
- 11 (f) Restrict the number of participants in the
12 association based on actuarial estimates. However, any person
13 denied participation solely on the basis of such restriction
14 must be granted priority on a first-come, first-served basis
15 for participation in the succeeding years in which the
16 association is reopened for participants.
- 17 (g) Contract for necessary goods and services; employ
18 necessary personnel; and engage the services of private
19 consultants, actuaries, managers, legal counsel, and
20 independent certified public accountants for administrative or
21 technical assistance.
- 22 (h) Solicit and accept gifts, grants, loans, and other
23 aid from any source or participate in any other way in any
24 government program to carry out the purposes of this act.
- 25 (i) Require and collect administrative fees and
26 charges in connection with any transaction and impose
27 reasonable penalties, including default, for delinquent
28 payments or for entering into the association on a fraudulent
29 basis.
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1 (j) Procure insurance against any loss in connection
2 with the property, assets, and activities of the association
3 or the board.

4 (k) Establish other policies, procedures, and criteria
5 to implement and administer this section.

6 (l) Adopt procedures to govern contract dispute
7 proceedings between the association and its vendors.

8 (5) The Auditor General shall conduct an operational
9 audit and an actuarial study of the Florida Health Endowment
10 Association. The actuarial study shall determine the projected
11 revenues and expenses associated with providing continuing
12 coverage to the current members of the Florida Comprehensive
13 Health Association and the feasibility of enrolling new
14 members. The reports shall be submitted to the President of
15 the Senate and Speaker of the House of Representatives on or
16 before January 1, 2002.

17 Section 2. Definitions.--As used in sections 1-6 of
18 this act, the term:

19 (1) "Administrator" means an authorized insurer or a
20 third-party administrator licensed under chapter 626, Florida
21 Statutes.

22 (2) "Association" means the Florida Health Endowment
23 Association.

24 (3) "Board" means the board of directors of the
25 association.

26 (4) "Case management" means the specific supervision
27 and management of the medical care provided or prescribed for
28 a specific individual or a specific episode of care, which may
29 include the use of health care providers designated by the
30 case manager.

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1 (5) "Agency" means the Agency for Health Care
2 Administration.

3 (6) "Medicare" means coverage under both parts A and B
4 of Title XVII of the Social Security Act, 42 U.S.C. s. 1395 et
5 seq., as amended.

6 (7) "Case manager" means the person or persons used by
7 the association to supervise and manage or coordinate with the
8 administrator the supervision and management of the medical
9 care provided or prescribed for a specific individual.

10 (8) "Plan of operation" means the articles, bylaws,
11 and operating rules and procedures adopted by the association.

12 (9) "Resident" means a person who is legally domiciled
13 in this state.

14 Section 3. Eligibility.--

15 (1) Except as provided in subsection (2), any person
16 who has been a resident for the previous year and continues to
17 be a resident of the state is eligible for coverage if such
18 person provides evidence of a notice of rejection or refusal
19 to issue substantially similar insurance for health reasons by
20 an insurer licensed to do business in this state.

21 (2) The association or administrator shall require
22 verification of residency for the preceding 12 months and
23 shall require any additional information or documentation or
24 statements under oath when necessary to determine residency
25 upon initial application and for the entire term of the
26 policy. A person may demonstrate his or her residency by
27 maintaining his or her residence in this state for the
28 preceding year, purchasing a home which is occupied by him or
29 her as his or her primary residence for the past 12 months, or
30 establishing a domicile in this state pursuant to s. 222.17,
31 Florida Statutes, for the previous 12 months.

- 1 (3) A person is ineligible for coverage under the
2 association if:
- 3 (a) The person has or obtains health insurance
4 coverage substantially similar to or more comprehensive than
5 the association's policy, or would be eligible to have
6 coverage if the person elected to obtain coverage.
- 7 (b) The person is an inmate or resident of a public
8 institution or correctional facility.
- 9 (c) The person's premiums are paid for or reimbursed
10 under any government-sponsored program or by any government
11 agency or health care provider, except as an agency or health
12 care provider.
- 13 (d) The person has received the lifetime maximum
14 benefit under coverage issued by the association.
- 15 (e) The person is eligible, on the date of issue of
16 coverage under the association, for substantially similar
17 coverage under another contract or policy.
- 18 (f) The person is currently enrolled in or is eligible
19 for health care benefits under:
- 20 1. The Medicare programs, except for those persons
21 currently insured by the Florida Comprehensive Health
22 Association and currently enrolled under Medicare.
- 23 2. The Florida Medicaid program.
- 24 3. The Florida Kidcare program.
- 25 4. Any other government-funded health care program.
- 26 (4) Coverage ceases:
- 27 (a) On the date a person is no longer a resident of
28 this state;
- 29 (b) On the date a person requests coverage to end;
- 30 (c) Upon the date of death of the covered person;
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1 (d) On the date state law requires cancellation of the
2 policy; or

3 (e) Sixty days after the person receives notice from
4 the association making any inquiry concerning the person's
5 eligibility or place of residence to which the person does not
6 reply.

7 (5) All eligible persons must, upon application or
8 renewal, agree to be placed in a case-management system when
9 the association and the case manager determine that such
10 system will be cost-effective and provide quality care to the
11 individual.

12 (6) The coverage of any person who ceases to meet the
13 eligibility requirements shall be terminated immediately. If
14 such person again becomes eligible for subsequent coverage,
15 any previous claims payments must be applied towards the
16 lifetime maximum benefit, and any limitation relating to
17 preexisting conditions in effect at the time such person again
18 becomes eligible applies to such person.

19 Section 4. Administrator.--

20 (1) The association shall select an administrator,
21 through a competitive bidding process, to administer the
22 coverage offered through the association. The association
23 shall evaluate bids based on criteria established by the
24 board, which must include:

25 (a) The administrator's proven ability to handle
26 individual accident and health insurance.

27 (b) The extent to which the administrator has
28 developed a network of health care providers for providing
29 managed health care on a statewide basis.

30 (c) The efficiency of the administrator's
31 claims-paying procedures.

- 1 (d) An estimate of total charges for administering the
2 coverage for the association.
- 3 (2) The administrator shall serve for a period of 3
4 years unless otherwise determined by the board. At least 1
5 year prior to the expiration of each 3-year period of service
6 by an administrator, the association shall invite all insurers
7 or third party administrators, including the current
8 administering insurer, to submit bids to serve as the
9 administrator for the succeeding 3-year period. The selection
10 of the administrator for the succeeding period must be made at
11 least 6 months prior to the end of the current 3-year period.
- 12 (3) The administrator may:
- 13 (a) Perform all eligibility and administrative
14 claims-payment functions relating to the association, as
15 prescribed by the association.
- 16 (b) Pay an agent's referral fee, as established by the
17 association, to each insurance agent who refers an applicant
18 to the association, if the applicant's application is
19 accepted. The selling or marketing of coverage is not limited
20 to the administrator or its agents. However, any agent must be
21 licensed by the Department of Insurance to sell health
22 insurance in this state. The referral fees must be paid by the
23 administrator from moneys received as premiums for the
24 coverage.
- 25 (c) Establish a premium-billing procedure for
26 collecting premiums from insured persons. Billings must be
27 made periodically as determined by the association.
- 28 (d) Perform all necessary functions to assure timely
29 payment of benefits, including:
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- 1 1. Making available information relating to the proper
2 manner of submitting a claim for benefits and distributing
3 forms upon which submissions are made.
- 4 2. Evaluating the eligibility of each claim for
5 payment.
- 6 3. Notifying each claimant, within the time limits
7 prescribed by law as to insurers and third-party
8 administrators, after receiving a properly completed and
9 executed proof of loss whether the claim is accepted,
10 rejected, or compromised.
- 11 (e) Submit regular reports to the association. The
12 frequency, content, and form of the reports must be determined
13 by the association.
- 14 (f) Following the close of each calendar year,
15 determine net premiums, reinsurance premiums less
16 administrative expense allowance, and the expense of
17 administration pertaining to the reinsurance operations of the
18 association.
- 19 (g) Pay claims expenses from the premium payments
20 received from or on behalf of covered persons.
- 21 Section 5. Minimum benefits coverage; exclusions;
22 premiums; deductibles.--
- 23 (1) COVERAGE OFFERED.--
- 24 (a) The association must offer in an annually
25 renewable policy the coverage specified in this section for
26 each eligible individual.
- 27 (b) Coverage provided to a person who is eligible for
28 Medicare benefits may not be issued as a Medicare supplement
29 policy as defined in s. 627.672, Florida Statutes.
- 30 (2) BENEFITS.--The association must offer coverage to
31 every eligible person, subject to limitations set by the

1 association. The coverage offered must pay an eligible
2 person's covered expenses, subject to limits on the deductible
3 and coinsurance payments authorized under subsection (4), up
4 to a lifetime limit of \$1 million per covered individual. The
5 maximum limit under this subsection may not be altered by the
6 association, and no actuarially equivalent benefit may be
7 substituted by the association.

8 (3) COVERED EXPENSES.--The coverage issued by the
9 association must, at a minimum, be patterned after the
10 standard health benefit as defined in s. 627.6699, Florida
11 Statutes.

12 (4) PREMIUMS, DEDUCTIBLES, AND COINSURANCE.--

13 (a) The association may provide for annual deductibles
14 for coverage in the amount of \$1,000 or any higher amounts
15 proposed by the board and approved by the Department of
16 Insurance. The schedules of premiums and deductibles must be
17 established by the association.

18 1. Separate schedules of premium rates based on age,
19 gender, and geography may apply for individual risks.

20 2. Rates are subject to approval by the Department of
21 Insurance.

22 3. Standard risk rates for coverage issued by the
23 association must be established by the Department of
24 Insurance, pursuant to s. 627.6675(3), Florida Statutes.

25 4. An association policy may contain provisions under
26 which coverage is excluded during a period of 12 months
27 following the effective date of coverage with respect to a
28 given covered individual for any preexisting condition, as
29 long as:

30 a. The condition manifested itself within a period of
31 6 months before the effective date of coverage; or

1 b. Medical advice or treatment was recommended or
2 received within a period of 6 months before the effective date
3 of coverage.

4 5. The board shall establish premium schedules and
5 shall revise premium schedules pursuant to this section each
6 12-month policy period, and the rate will be 200 percent of
7 the standard risk rate as established by the Department of
8 Insurance.

9 a. If the covered costs incurred by the eligible
10 person exceed the deductible for coverage selected by the
11 person in a policy year, the association shall pay in the
12 following manner:

13 (I) For individuals placed under case management, the
14 association shall pay 90 percent of the additional covered
15 costs incurred by the person during the policy year for the
16 first \$10,000, after which the association shall pay 100
17 percent of the covered costs incurred by the person during the
18 policy year.

19 (II) For individuals using a preferred provider
20 network, the association shall pay 80 percent of the
21 additional covered costs incurred by the person during the
22 policy year for the first \$10,000, after which the association
23 shall pay 90 percent of covered costs incurred by the person
24 during the policy year.

25 (III) If the person does not use either the case
26 management system or a preferred provider network, the
27 association shall pay 60 percent of the additional covered
28 costs incurred by the person for the first \$10,000, after
29 which the association shall pay 70 percent of the additional
30 covered costs incurred by the person during the policy year.

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1 b. All premiums paid to the association must be
2 deposited with the Florida Health Endowment Association.

3 c. Notwithstanding the provisions of s. 624.509,
4 Florida Statutes, premiums for coverage are, as to the
5 association and participating insurers, exempt from premium
6 taxation.

7 (5) OTHER SOURCES PRIMARY.--

8 (a) Any amounts paid or payable by Medicare or any
9 other governmental program or any other insurance, or
10 self-insurance maintained in lieu of otherwise statutorily
11 required insurance, may not be made or recognized as claims
12 under such policy or be recognized as or towards satisfaction
13 of applicable deductibles or out-of-pocket maximums or to
14 reduce the limits of benefits available.

15 (b) The association has a cause of action against a
16 participant for any benefits paid to the participant which
17 should not have been claimed or recognized as claims because
18 of the provisions of this subsection or because the condition
19 is not covered.

20 (6) NONENTITLEMENT.--Coverage under the Florida Health
21 Endowment Association does not provide an individual with an
22 entitlement to health care services or health insurance. No
23 cause of action shall arise against the state or the board for
24 failure to make health care services or health insurance
25 available under this section.

26 Section 6. Disease management services.--

27 (1) The association may contract with insurers to
28 provide disease management services for insurers that elect to
29 participate in the association's disease management program.

30 (2) An insurer that elects to contract for such
31 services must provide the association with all medical records

1 and claims information necessary for the association to
2 effectively manage the services.

3 (3) Moneys collected by the association for providing
4 disease management services must be used by the association to
5 pay administrative expenses associated with the disease
6 management program, and any remaining moneys must be deposited
7 in the Florida Health Endowment Trust Fund.

8 Section 7. Effective upon the date of the opening of
9 the association, all individuals who have insurance coverage
10 issued by the Florida Comprehensive Health Association on that
11 date must be issued insurance coverage under the Florida
12 Health Endowment Association. The Florida Health Endowment
13 Association shall assume all assets and liabilities of the
14 Florida Comprehensive Health Association. The articles,
15 bylaws, and operational rules of the Florida Comprehensive
16 Health Association, and any amendments thereto, shall remain
17 in effect until the Agency for Health Care Administration has
18 approved the Florida Health Endowment Association plan of
19 operation, articles, bylaws, and operating rules.

20 Section 8. Sections 627.648, 627.6482, 627.6484,
21 627.6486, 627.6488, 627.6489, 627.649, 627.6496, and 627.6498,
22 Florida Statutes, are repealed effective upon the opening of
23 the association. Sections 627.6492 and 627.6494, Florida
24 Statutes, are repealed January 1, 2001.

25 Section 9. The sum of \$50 million is appropriated from
26 the General Revenue Fund to the Florida Health Endowment Trust
27 Fund to carry out the provisions of this act during fiscal
28 year 2000-2001.

29 Section 10. This act shall take effect July 1, 2000.
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