

Bill No. CS for CS for SB 2264

Amendment No. ____ Barcode 180206

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Atwater moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 5, line 3, through		
15	page 8, line 17, delete those lines		
16			
17	and insert:		
18	Section 2. Paragraph (g) of subsection (1) of section		
19	626.9541, Florida Statutes, is amended to read:		
20	626.9541 Unfair methods of competition and unfair or		
21	deceptive acts or practices defined.--		
22	(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR		
23	DECEPTIVE ACTS.--The following are defined as unfair methods		
24	of competition and unfair or deceptive acts or practices:		
25	(g) Unfair discrimination.--		
26	1. Knowingly making or permitting any unfair		
27	discrimination between individuals of the same actuarially		
28	supportable class and equal expectation of life, in the rates		
29	charged for any life insurance or annuity contract, in the		
30	dividends or other benefits payable thereon, or in any other		
31	of the terms and conditions of such contract.		

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1 2. Knowingly making or permitting any unfair
2 discrimination between individuals of the same actuarially
3 supportable class, as determined at the original time of
4 issuance of the coverage, and essentially the same hazard, in
5 the amount of premium, policy fees, or rates charged for any
6 policy or contract of accident, disability, or health
7 insurance, in the benefits payable thereunder, in any of the
8 terms or conditions of such contract, or in any other manner
9 whatever.

10 3. For a health insurer, life insurer, disability
11 insurer, property and casualty insurer, automobile insurer, or
12 managed care provider to underwrite a policy, or refuse to
13 issue, reissue, or renew a policy, refuse to pay a claim,
14 cancel or otherwise terminate a policy, or increase rates
15 based upon the fact that an insured or applicant who is also
16 the proposed insured has made a claim or sought or should have
17 sought medical or psychological treatment in the past for
18 abuse, protection from abuse, or shelter from abuse, or that a
19 claim was caused in the past by, or might occur as a result
20 of, any future assault, battery, or sexual assault by a family
21 or household member upon another family or household member as
22 defined in s. 741.28. A health insurer, life insurer,
23 disability insurer, or managed care provider may refuse to
24 underwrite, issue, or renew a policy based on the applicant's
25 medical condition, but shall not consider whether such
26 condition was caused by an act of abuse. For purposes of this
27 section, the term "abuse" means the occurrence of one or more
28 of the following acts:

29 a. Attempting or committing assault, battery, sexual
30 assault, or sexual battery;

31 b. Placing another in fear of imminent serious bodily

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1 injury by physical menace;

2 c. False imprisonment;

3 d. Physically or sexually abusing a minor child; or

4 e. An act of domestic violence as defined in s.

5 741.28.

6
7 This subparagraph does not prohibit a property and casualty
8 insurer or an automobile insurer from excluding coverage for
9 intentional acts by the insured if such exclusion does not
10 constitute an act of unfair discrimination as defined in this
11 paragraph.

12 Section 3. Subsection (2) of section 627.6515, Florida
13 Statutes, is amended, and subsections (9) and (10) are added
14 to that section to read:

15 627.6515 Out-of-state groups.--

16 (2) Except as otherwise provided in this part, this
17 part does not apply to a group health insurance policy issued
18 or delivered outside this state under which a resident of this
19 state is provided coverage if:

20 (a) The policy is issued to an employee group the
21 composition of which is substantially as described in s.
22 627.653; a labor union group or association group the
23 composition of which is substantially as described in s.
24 627.654; an additional group the composition of which is
25 substantially as described in s. 627.656; a group insured
26 under a blanket health policy when the composition of the
27 group is substantially in compliance with s. 627.659; a group
28 insured under a franchise health policy when the composition
29 of the group is substantially in compliance with s. 627.663;
30 an association group to cover persons associated in any other
31 common group, which common group is formed primarily for

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1 purposes other than providing insurance; a group that is
2 established primarily for the purpose of providing group
3 insurance, provided the benefits are reasonable in relation to
4 the premiums charged thereunder and the issuance of the group
5 policy has resulted, or will result, in economies of
6 administration; or a group of insurance agents of an insurer,
7 which insurer is the policyholder;

8 (b) Certificates evidencing coverage under the policy
9 are issued to residents of this state and contain in
10 contrasting color and not less than 10-point type the
11 following statement: "The benefits of the policy providing
12 your coverage are governed primarily by the law of a state
13 other than Florida"; and

14 (c) The policy provides the benefits specified in ss.
15 627.419, 627.6574, 627.6575, 627.6579, 627.6612, 627.66121,
16 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and
17 627.66911.

18 (d) Applications for certificates of coverage offered
19 to residents of this state must contain, in contrasting color
20 and not less than 12-point type, the following statement on
21 the same page as the applicant's signature:

22
23 "This policy is primarily governed by the laws
24 of ...insert state where the master policy if
25 filed.... As a result, all of the rating laws
26 applicable to policies filed in this state do
27 not apply to this coverage, which may result in
28 increases in your premium at renewal that would
29 not be permissible under a Florida-approved
30 policy. Any purchase of individual health
31 insurance should be considered carefully, as

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1 future medical conditions may make it
 2 impossible to qualify for another individual
 3 health policy. For information concerning
 4 individual health coverage under a
 5 Florida-approved policy, consult your agent or
 6 the Florida Department of Financial Services."
 7 This paragraph applies only to group
 8 certificates providing health insurance
 9 coverage which require individualized
 10 underwriting to determine coverage eligibility
 11 for an individual or premium rates to be
 12 charged to an individual except for the
 13 following:
 14 1. Policies issued to provide coverage to groups of
 15 persons all of whom are in the same or functionally related
 16 licensed professions, and providing coverage only to such
 17 licensed professionals, their employees, or their dependents;
 18 2. Policies providing coverage to small employers as
 19 defined by s. 627.6699. Such policies shall be subject to, and
 20 governed by, the provisions of s. 627.6699;
 21 3. Policies issued to a bona fide association, as
 22 defined by s. 627.6571(5), provided that there is a person or
 23 board acting as a fiduciary for the benefit of the members,
 24 and such association is not owned, controlled by, or otherwise
 25 associated with the insurance company; or
 26 4. Any accidental death, accidental death and
 27 dismemberment, accident-only, vision-only, dental-only,
 28 hospital indemnity-only, hospital accident-only, cancer,
 29 specified disease, Medicare supplement, products that
 30 supplement Medicare, long-term care, or disability income
 31 insurance, or similar supplemental plans provided under a

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1 separate policy, certificate, or contract of insurance, which
2 cannot duplicate coverage under an underlying health plan,
3 coinsurance, or deductibles or coverage issued as a supplement
4 to workers' compensation or similar insurance, or automobile
5 medical-payment insurance.

6 (9) Any insured shall be able to terminate membership
7 or affiliation with the group to whom the master policy is
8 issued. An insured that elects to terminate his membership or
9 affiliation with the group shall provide written notice to the
10 insurer. Upon providing the written notice, the member shall
11 be entitled to the rights and options provided by s. 627.6675.

12 (10) Any pricing structure that results, or is
13 reasonably expected to result, in rate escalations resulting
14 in a death spiral, which is a rate escalation caused by
15 segmenting healthy and unhealthy lives resulting in an
16 ultimate pool of primarily less healthy insureds, is
17 considered a predatory pricing structure and constitutes
18 unfair discrimination as provided in s. 626.9541(1)(g). The
19 Financial Services Commission may adopt rules to define other
20 unfairly discriminatory or predatory health insurance rating
21 practices.

22
23 (Redesignate subsequent sections.)

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25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, lines 7-16, delete those lines

29
30 and insert:

31 under certain circumstances; amending s.

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1 626.9541, F.S., relating to unfair
2 discrimination; amending s. 627.6515, F.S.;
3 providing for disclosure and exceptions
4 thereto; clarifying applicability to
5 out-of-state group policies; prohibiting
6 predatory pricing; authorizing the Office of
7 Insurance Regulation to adopt rules; clarifying
8 applicability of group conversion provisions;
9 providing an effective date.

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