

Bill No. CS for CS for SB 2264

Amendment No. \_\_\_\_ Barcode 610188

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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	05/01/2003 10:02 AM	.	
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11	Senator Atwater moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
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 augmenting health and unhealthy lives resulting in an ultimate  
16 pool of primarily less health insured, is considered a  
17 predatory pricing structure and constitutes unfair  
18 discrimination as provided in s. 626.9541(1)(g). The Financial  
19 Services Commission may adopt rules to define other unfairly  
20 discriminatory or predatory health insurance rating practices.

21  
22 (Redesignate subsequent sections.)

23  
24  
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

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

28  
29 and insert:

30 under certain circumstances; amending s.

31 626.9541, F.S., relating to unfair

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1 discrimination; amending s. 627.6515, F.S.;

2 providing for disclosure and exceptions

3 thereto; clarifying applicability to

4 out-of-state group policies; prohibiting

5 predatory pricing; authorizing the Office of

6 Insurance Regulation to adopt rules; clarifying

7 applicability of group conversion provisions;

8 providing an effective date.

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