

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Negron offered the following:

Amendment (with title amendment)

Remove line(s) 136-327, and insert:

Section 2. Paragraph (g) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.--

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.--The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(g) *Unfair discrimination*.--

1. Knowingly making or permitting any unfair discrimination between individuals of the same actuarially supportable class and equal expectation of life, in the rates charged for any life insurance or annuity contract, in the

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27 dividends or other benefits payable thereon, or in any other of
28 the terms and conditions of such contract.

29 2. Knowingly making or permitting any unfair
30 discrimination between individuals of the same actuarially
31 supportable class, as determined at the original time of
32 issuance of the coverage, and essentially the same hazard, in
33 the amount of premium, policy fees, or rates charged for any
34 policy or contract of accident, disability, or health insurance,
35 in the benefits payable thereunder, in any of the terms or
36 conditions of such contract, or in any other manner whatever.

37 3. For a health insurer, life insurer, disability insurer,
38 property and casualty insurer, automobile insurer, or managed
39 care provider to underwrite a policy, or refuse to issue,
40 reissue, or renew a policy, refuse to pay a claim, cancel or
41 otherwise terminate a policy, or increase rates based upon the
42 fact that an insured or applicant who is also the proposed
43 insured has made a claim or sought or should have sought medical
44 or psychological treatment in the past for abuse, protection
45 from abuse, or shelter from abuse, or that a claim was caused in
46 the past by, or might occur as a result of, any future assault,
47 battery, or sexual assault by a family or household member upon
48 another family or household member as defined in s. 741.28. A
49 health insurer, life insurer, disability insurer, or managed
50 care provider may refuse to underwrite, issue, or renew a policy
51 based on the applicant's medical condition, but shall not
52 consider whether such condition was caused by an act of abuse.
53 For purposes of this section, the term "abuse" means the
54 occurrence of one or more of the following acts:

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- 55 a. Attempting or committing assault, battery, sexual
56 assault, or sexual battery;
- 57 b. Placing another in fear of imminent serious bodily
58 injury by physical menace;
- 59 c. False imprisonment;
- 60 d. Physically or sexually abusing a minor child; or
- 61 e. An act of domestic violence as defined in s. 741.28.
- 62

63 This subparagraph does not prohibit a property and casualty
64 insurer or an automobile insurer from excluding coverage for
65 intentional acts by the insured if such exclusion does not
66 constitute an act of unfair discrimination as defined in this
67 paragraph.

68 Section 3. Subsection (2) of section 627.6515, Florida
69 Statutes, is amended, and subsections (9) and (10) are added to
70 said section, to read:

71 627.6515 Out-of-state groups.--

72 (2) Except as provided in this part, this part does not
73 apply to a group health insurance policy issued or delivered
74 outside this state under which a resident of this state is
75 provided coverage if:

76 (a) The policy is issued to an employee group the
77 composition of which is substantially as described in s.
78 627.653; a labor union group or association group the
79 composition of which is substantially as described in s.
80 627.654; an additional group the composition of which is
81 substantially as described in s. 627.656; a group insured under
82 a blanket health policy when the composition of the group is
83 substantially in compliance with s. 627.659; a group insured

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84 under a franchise health policy when the composition of the
85 group is substantially in compliance with s. 627.663; an
86 association group to cover persons associated in any other
87 common group, which common group is formed primarily for
88 purposes other than providing insurance; a group that is
89 established primarily for the purpose of providing group
90 insurance, provided the benefits are reasonable in relation to
91 the premiums charged thereunder and the issuance of the group
92 policy has resulted, or will result, in economies of
93 administration; or a group of insurance agents of an insurer,
94 which insurer is the policyholder;

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

100 (c) The policy provides the benefits specified in ss.
101 627.419, 627.6574, 627.6575, 627.6579, 627.6612, 627.66121,
102 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and 627.66911;
103 and

104 (d) Applications for certificates of coverage offered to
105 residents of this state contain in contrasting color and not
106 less than 12-point type the following statement on the same page
107 as the applicant signature: "This policy is primarily governed
108 by the laws of {insert state where the master policy is filed}.
109 As a result, all of the rating laws applicable to policies filed
110 in Florida do not apply to this coverage, which may result in
111 increases in your premium at renewal that would not be
112 permissible under a Florida-approved policy. Any purchase of

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113 individual health insurance should be considered carefully, as
114 future medical conditions may make it impossible to qualify for
115 another individual health policy. For information concerning
116 individual health coverage under a Florida-approved policy,
117 consult your agent or the Florida Department of Financial
118 Services". The provisions of this paragraph only apply to group
119 certificates providing health insurance coverage which require
120 individual underwriting to determine coverage eligibility for an
121 individual or premium rates to be charged to an individual
122 except for the following:

123 1. Policies issued to provide coverage to groups of
124 persons all of whom are in the same or functionally related
125 licensed professions, and providing coverage only to such
126 licensed professionals, their employees or their dependents;

127 2. Policies providing coverage to small employers as
128 defined by s. 627.6699. Such policies shall be subject to, and
129 governed by, the provisions of s. 627.6699;

130 3. Policies issued to a bona fide association, as defined
131 by s.627.6571(5), provided that there is a person or board
132 acting as a fiduciary for the benefit of the members; such
133 association is not owned, controlled by, or otherwise associated
134 with the insurance company; or

135 4. Any accidental death, accidental death and
136 dismemberment, accident-only, vision-only, dental-only, hospital
137 indemnity-only, hospital accident-only, cancer, specified
138 disease, Medicare supplement, products that supplement Medicare,
139 long-term care, or disability income insurance, similar
140 supplemental plans provided under a separate policy,
141 certificate, or contract of insurance, which cannot duplicate

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142 coverage under an underlying health plan, coinsurance, or
143 deductibles; coverage issued as a supplement to workers'
144 compensation or similar insurance; or automobile medical-payment
145 insurance.

146 (9) Any insured shall be able to terminate membership or
147 affiliation with the group to whom the master policy is issued.
148 An insured that elects to terminate his membership or
149 affiliation with the group, shall provide written notice to the
150 insurer. Upon providing such notice, the member shall be
151 entitled to the rights and options provided by s. 627.6675.

152 (10) Any pricing structure that results or is reasonably
153 expected to result in rate escalations resulting in a death
154 spiral, which is a rate escalation caused by segmenting healthy
155 and unhealthy lives resulting in an ultimate pool of primarily
156 less healthy insureds is considered a predatory pricing
157 structure and constitutes unfair discrimination as provided in
158 s. 626.9541(1)(g). The Financial Services Commission may, by
159 rule, define other unfairly discriminatory or predatory health
160 insurance rating practices.

161
162 ===== T I T L E A M E N D M E N T =====

163 Remove line(s) 13-24, and insert:

164 exemptions; amending s. 626.9541, F.S.; relating to unfair
165 discrimination; amending s. 627.6515, F.S.; providing for
166 disclosure and exceptions thereto and clarifies applicability to
167 out-of-state group policies; prohibits predatory pricing;
168 authorizes Office of Insurance Regulation to adopt rules;
169 clarifies applicability of group conversion provisions;
170 providing an effective date.