



1 A bill to be entitled
 2 An act relating to health insurance; amending s. 627.411,
 3 F.S.; providing conditions for disapproval of health
 4 insurance forms by the Office of Insurance Regulation;
 5 amending s. 627.6515, F.S.; amending s. 626.9541, F.S.;
 6 relating to unfair discrimination; amending s. 627.6515,
 7 F.S.; providing for disclosure and exceptions thereto and
 8 clarifies applicability to out-of-state group policies;
 9 prohibits predatory pricing; authorizes Office of
 10 Insurance Regulation to adopt rules; clarifies
 11 applicability of group conversion provisions; amending s.
 12 641.31, F.S.; specifying nonapplication of certain health
 13 maintenance contract filing requirements to certain group
 14 health insurance policies, with exceptions; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (e) of subsection (1) of section
 20 627.411, Florida Statutes, is amended, and subsection (3) is
 21 added to said section, to read:

22 627.411 Grounds for disapproval.--

23 (1) The department shall disapprove any form filed under
 24 s. 627.410, or withdraw any previous approval thereof, only if
 25 the form:

26 (e) Is for health insurance and:

27 1. Provides benefits that ~~which~~ are unreasonable in
 28 relation to the premium charged;—



29 2. Contains provisions that ~~which~~ are unfair or
30 inequitable or contrary to the public policy of this state or
31 ~~that which~~ encourage misrepresentation; ~~or~~

32 3. Contains provisions that ~~which~~ apply rating practices
33 ~~that which result in premium escalations that are not viable for~~
34 ~~the policyholder market or~~ result in unfair discrimination
35 pursuant to s. 626.9541(1)(g)2. in sales practices.

36 (3)(a) For health insurance coverage as described in s.
37 627.6561(5)(a)2., the minimum loss ratio standard of incurred
38 claims to earned premium for the form shall be 65 percent.

39 (b) Incurred claims are claims occurring within a fixed
40 period, whether or not paid during the same period, under the
41 terms of the policy period.

42 1. Claims include scheduled benefit payments, or services
43 provided by a provider or through a provider network for dental,
44 vision, disability, and similar health benefits.

45 2. Claims do not include state assessments, taxes,
46 company expenses, or any expense incurred by the company for the
47 cost of adjusting and settling a claim, including the review,
48 qualification, oversight, management, or monitoring of a claim
49 or incentives or compensation to providers for other than the
50 provisions of health care services.

51 3. A company may at its discretion include costs that are
52 demonstrated to reduce claims, such as fraud intervention
53 programs or case management costs, which are identified in each
54 filing, are demonstrated to reduce claims costs, and do not
55 result in increasing the experience period loss ratio by more
56 than 5 percent.



57 4. For scheduled claim payments, such as disability
58 income or long-term care, the incurred claims shall be the
59 present value of the benefit payments discounted for continuance
60 and interest.

61 Section 2. Paragraph (g) of subsection (1) of section
62 626.9541, Florida Statutes, is amended to read:

63 626.9541 Unfair methods of competition and unfair or
64 deceptive acts or practices defined.--

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

68 (g) *Unfair discrimination*.--

69 1. Knowingly making or permitting any unfair
70 discrimination between individuals of the same actuarially
71 supportable class and equal expectation of life, in the rates
72 charged for any life insurance or annuity contract, in the
73 dividends or other benefits payable thereon, or in any other of
74 the terms and conditions of such contract.

75 2. Knowingly making or permitting any unfair
76 discrimination between individuals of the same actuarially
77 supportable class, as determined at the original time of
78 issuance of the coverage, and essentially the same hazard, in
79 the amount of premium, policy fees, or rates charged for any
80 policy or contract of accident, disability, or health insurance,
81 in the benefits payable thereunder, in any of the terms or
82 conditions of such contract, or in any other manner whatever.

83 3. For a health insurer, life insurer, disability insurer,
84 property and casualty insurer, automobile insurer, or managed



85 | care provider to underwrite a policy, or refuse to issue,
86 | reissue, or renew a policy, refuse to pay a claim, cancel or
87 | otherwise terminate a policy, or increase rates based upon the
88 | fact that an insured or applicant who is also the proposed
89 | insured has made a claim or sought or should have sought medical
90 | or psychological treatment in the past for abuse, protection
91 | from abuse, or shelter from abuse, or that a claim was caused in
92 | the past by, or might occur as a result of, any future assault,
93 | battery, or sexual assault by a family or household member upon
94 | another family or household member as defined in s. 741.28. A
95 | health insurer, life insurer, disability insurer, or managed
96 | care provider may refuse to underwrite, issue, or renew a policy
97 | based on the applicant's medical condition, but shall not
98 | consider whether such condition was caused by an act of abuse.
99 | For purposes of this section, the term "abuse" means the
100 | occurrence of one or more of the following acts:

- 101 | a. Attempting or committing assault, battery, sexual
102 | assault, or sexual battery;
- 103 | b. Placing another in fear of imminent serious bodily
104 | injury by physical menace;
- 105 | c. False imprisonment;
- 106 | d. Physically or sexually abusing a minor child; or
- 107 | e. An act of domestic violence as defined in s. 741.28.

108 |
109 | This subparagraph does not prohibit a property and casualty
110 | insurer or an automobile insurer from excluding coverage for
111 | intentional acts by the insured if such exclusion does not



112 constitute an act of unfair discrimination as defined in this
 113 paragraph.

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

117 627.6515 Out-of-state groups.--

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

122 (a) The policy is issued to an employee group the
 123 composition of which is substantially as described in s.
 124 627.653; a labor union group or association group the
 125 composition of which is substantially as described in s.
 126 627.654; an additional group the composition of which is
 127 substantially as described in s. 627.656; a group insured under
 128 a blanket health policy when the composition of the group is
 129 substantially in compliance with s. 627.659; a group insured
 130 under a franchise health policy when the composition of the
 131 group is substantially in compliance with s. 627.663; an
 132 association group to cover persons associated in any other
 133 common group, which common group is formed primarily for
 134 purposes other than providing insurance; a group that is
 135 established primarily for the purpose of providing group
 136 insurance, provided the benefits are reasonable in relation to
 137 the premiums charged thereunder and the issuance of the group
 138 policy has resulted, or will result, in economies of



139 administration; or a group of insurance agents of an insurer,
140 which insurer is the policyholder;

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

146 (c) The policy provides the benefits specified in ss.
147 627.419, 627.6574, 627.6575, 627.6579, 627.6612, 627.66121,
148 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and 627.66911;
149 and

150 (d) Applications for certificates of coverage offered to
151 residents of this state contain in contrasting color and not
152 less than 12-point type the following statement on the same page
153 as the applicant signature: "This policy is primarily governed
154 by the laws of {insert state where the master policy is filed}.
155 As a result, all of the rating laws applicable to policies filed
156 in Florida do not apply to this coverage, which may result in
157 increases in your premium at renewal that would not be
158 permissible under a Florida-approved policy. Any purchase of
159 individual health insurance should be considered carefully, as
160 future medical conditions may make it impossible to qualify for
161 another individual health policy. For information concerning
162 individual health coverage under a Florida-approved policy,
163 consult your agent or the Florida Department of Financial
164 Services". The provisions of this paragraph only apply to group
165 certificates providing health insurance coverage which require
166 individual underwriting to determine coverage eligibility for an



167 individual or premium rates to be charged to an individual
168 except for the following:

169 1. Policies issued to provide coverage to groups of
170 persons all of whom are in the same or functionally related
171 licensed professions, and providing coverage only to such
172 licensed professionals, their employees or their dependents;

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

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

181 4. Any accidental death, accidental death and
182 dismemberment, accident-only, vision-only, dental-only, hospital
183 indemnity-only, hospital accident-only, cancer, specified
184 disease, Medicare supplement, products that supplement Medicare,
185 long-term care, or disability income insurance, similar
186 supplemental plans provided under a separate policy,
187 certificate, or contract of insurance, which cannot duplicate
188 coverage under an underlying health plan, coinsurance, or
189 deductibles; coverage issued as a supplement to workers'
190 compensation or similar insurance; or automobile medical-payment
191 insurance.

192 (9) Any insured shall be able to terminate membership or
193 affiliation with the group to whom the master policy is issued.
194 An insured that elects to terminate his membership or



195 affiliation with the group, shall provide written notice to the
196 insurer. Upon providing such notice, the member shall be
197 entitled to the rights and options provided by s. 627.6675.

198 (10) Any pricing structure that results or is reasonably
199 expected to result in rate escalations resulting in a death
200 spiral, which is a rate escalation caused by segmenting healthy
201 and unhealthy lives resulting in an ultimate pool of primarily
202 less healthy insureds is considered a predatory pricing
203 structure and constitutes unfair discrimination as provided in
204 s. 626.9541(1)(g). The Financial Services Commission may, by
205 rule, define other unfairly discriminatory or predatory health
206 insurance rating practices.

207 Section 4. Subsection (2) and paragraph (d) of subsection
208 (3) of section 641.31, Florida Statutes, are amended to read:

209 641.31 Health maintenance contracts.--

210 (2) The rates charged by any health maintenance
211 organization to its subscribers shall not be excessive,
212 inadequate, or unfairly discriminatory or follow a rating
213 methodology that is inconsistent, indeterminate, or ambiguous or
214 encourages misrepresentation or misunderstanding. A law
215 restricting or limiting deductibles, coinsurance, copayments, or
216 annual or lifetime maximum payments shall not apply to any
217 health maintenance organization contract offered or delivered to
218 an individual or a group of 51 or more persons that provides
219 coverage as described in s.641.31071(5)(a)2.department, in
220 accordance with generally accepted actuarial practice as applied
221 to health maintenance organizations, may define by rule what
222 constitutes excessive, inadequate, or unfairly discriminatory



223 rates and may require whatever information it deems necessary to
224 determine that a rate or proposed rate meets the requirements of
225 this subsection.

226 (3)

227 (d) Any change in rates charged for the contract must be
228 filed with the department not less than 30 days in advance of
229 the effective date. At the expiration of such 30 days, the rate
230 filing shall be deemed approved unless prior to such time the
231 filing has been affirmatively approved or disapproved by order
232 of the department. The approval of the filing by the department
233 constitutes a waiver of any unexpired portion of such waiting
234 period. The department may extend by not more than an additional
235 15 days the period within which it may so affirmatively approve
236 or disapprove any such filing, by giving notice of such
237 extension before expiration of the initial 30-day period. At the
238 expiration of any such period as so extended, and in the absence
239 of such prior affirmative approval or disapproval, any such
240 filing shall be deemed approved. This paragraph does not apply
241 to group health contracts effectuated and delivered in this
242 state insuring groups of 51 or more persons, except for Medicare
243 supplement insurance, long-term care insurance, and any coverage
244 under which the increase in claims costs over the lifetime of
245 the contract due to advancing age or duration is refunded in the
246 premium.

247 Section 5. This act shall take effect July 1, 2003.