

1                                   A bill to be entitled  
 2           An act relating to insurance administrators; amending s.  
 3           626.88, F.S.; revising the definition of "administrator";  
 4           providing additional definitions; amending s. 626.8805,  
 5           F.S.; requiring additional documents from administrators  
 6           applying for a certificate of authority; amending s.  
 7           626.8817, F.S.; specifying duties and responsibilities of  
 8           insurers and administrators in administering coverage;  
 9           amending s. 626.89, F.S.; requiring an audited financial  
 10          statement; providing requirements; authorizing the  
 11          Financial Services Commission to require submittal of  
 12          reports or filings electronically; creating s. 626.8991,  
 13          F.S.; authorizing the commission to adopt certain rules;  
 14          providing an effective date.

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

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 18           Section 1. Paragraph (a) of subsection (1) and subsection  
 19           (2) of section 626.88, Florida Statutes, are amended, and  
 20           paragraphs (q), (r), and (s) are added to subsection (1) of said  
 21           section, to read:

22           626.88   Definitions of ~~"administrator" and "insurer".--~~

23           (1) For the purposes of this part, an "administrator" is  
 24           any person who directly or indirectly solicits or effects  
 25           coverage of, collects charges or premiums from, or adjusts or  
 26           settles claims on residents of this state in connection with  
 27           authorized commercial self-insurance funds or with insured or  
 28           self-insured programs which provide life or health insurance

29 coverage or coverage of any other expenses described in s.  
30 624.33(1) or any person who, through a health care risk contract  
31 as defined in s. 641.234 with an insurer or health maintenance  
32 organization, provides billing and collection services to health  
33 insurers and health maintenance organizations on behalf of  
34 health care providers, other than any of the following persons:

35 (a) An employer, or wholly owned direct or indirect  
36 subsidiary of an employer, on behalf of such employer's  
37 employees or the employees of one or more subsidiary or  
38 affiliated corporations of such employer.

39 (q) An entity which is affiliated with an insurer and  
40 which only performs the contractual duties, between the  
41 administrator and the insurer, of an administrator for the  
42 direct and assumed insurance business of the affiliated insurer.  
43 The insurer is responsible for the acts of the administrator and  
44 is responsible for providing all of the administrator's books  
45 and records to the office upon request. For purposes of this  
46 paragraph, the term "insurer" means a licensed insurance  
47 company, health maintenance organization, prepaid limited health  
48 service organization, or prepaid health clinic.

49 (r) A nonresident entity licensed in the entity's state of  
50 domicile as an administrator if the entity's duties in this  
51 state are limited to the administration of a group policy or  
52 plan of insurance and no more than a total of 100 lives for all  
53 plans residing in this state.

54 (s) A person licensed as a managing general agent in this  
55 state whose activities are limited exclusively to the scope of  
56 activities conveyed under such license.

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A person who provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers shall comply with the provisions of ss. 627.6131, 641.3155, and 641.51(4).

(2) For the purposes of this part:

(a) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a specified entity or person.

(b) "Control," including the words "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person.

(c) "Generally accepted accounting principles" or "GAAP" means United States generally accepted accounting principles consistently applied.

(d),~~an~~ "Insurer" includes an authorized commercial self-insurance fund and includes any person undertaking to provide

84 life or health insurance coverage or coverage of any of the  
85 other expenses described in s. 624.33(1).

86 Section 2. Paragraph (d) of subsection (2) of section  
87 626.8805, Florida Statutes, is amended, paragraph (e) of said  
88 subsection is renumbered as paragraph (f), and new paragraph (e)  
89 is added to said subsection, to read:

90 626.8805 Certificate of authority to act as  
91 administrator.--

92 (2) The administrator shall file with the office an  
93 application for a certificate of authority upon a form to be  
94 adopted by the commission and furnished by the office, which  
95 application shall include or have attached the following  
96 information and documents:

97 (d) Audited annual financial statements for the most  
98 recent 2 fiscal years which prove that the applicant has a  
99 positive net worth. If the applicant has been in existence for  
100 less than 2 fiscal years, the application shall include  
101 financial statements or reports, certified by an officer of the  
102 applicant and prepared in accordance with generally accepted  
103 accounting principles, for any completed fiscal years and for  
104 any month during the current fiscal year for which such  
105 financial statements or reports have been completed. An audited  
106 financial statement or report prepared on a consolidated basis  
107 shall include a columnar consolidating or combining worksheet  
108 that shall be filed with the report, and shall comply with the  
109 following:

110 1. Amounts shown on the consolidated audited financial  
111 report shall be shown on the worksheet.

112           2. Amounts for each entity shall be stated separately.

113           3. Explanations of consolidating and eliminating entries  
 114 shall be included.

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 116 The applicant shall also include such other information as the  
 117 office requires in order to review the current financial  
 118 condition of the applicant.

119           (e) A statement describing the business plan, including  
 120 information on staffing levels and activities proposed in this  
 121 state and nationwide. The plan shall provide details setting  
 122 forth the applicant's capability for providing a sufficient  
 123 number of experienced and qualified personnel in the areas of  
 124 claims processing, recordkeeping, and underwriting ~~Annual~~  
 125 statements or reports for the 3 most recent years, or such other  
 126 information as the office may require in order to review the  
 127 current financial condition of the applicant.

128           Section 3. Section 626.8817, Florida Statutes, is amended  
 129 to read:

130           626.8817 Responsibilities of insurance company with  
 131 respect to administration of coverage insured.--

132           (1) If an insurer uses the services of an administrator,  
 133 the insurer shall be responsible for determining the benefits,  
 134 premium rates, underwriting criteria, and claims payment  
 135 procedures applicable to the coverage and for securing  
 136 reinsurance, if any. The rules pertaining to these matters shall  
 137 be provided, in writing, by the insurer to the administrator.  
 138 The responsibilities of the administrator as to any of these

139 matters shall be set forth in the written agreement between the  
 140 administrator and the insurer.

141 (2) It is the sole responsibility of the insurer to  
 142 provide for competent administration of its programs.

143 (3) In cases in which an administrator administers  
 144 benefits for more than 100 certificateholders on behalf of an  
 145 insurer, the insurer shall, at least semiannually, conduct a  
 146 review of the operations of the administrator. At least one such  
 147 review must be an onsite audit of the operations of the  
 148 administrator.

149 (4) For purposes of this section, the term "insurer" means  
 150 a licensed insurance company, health maintenance organization,  
 151 prepaid limited health service organization, or prepaid health  
 152 clinic ~~As to the administration of coverage insured by an~~  
 153 ~~insurance company, the insurance company, and not the~~  
 154 ~~administrator, shall be responsible for determining the~~  
 155 ~~benefits, rates, underwriting criteria, and claims payment~~  
 156 ~~procedures applicable to such coverage and for securing~~  
 157 ~~reinsurance, if any.~~

158 Section 4. Subsections (2) and (3) of section 626.89,  
 159 Florida Statutes, are renumbered as subsections (3) and (4),  
 160 respectively, and new subsections (2) and (5) are added to said  
 161 section, to read:

162 626.89 Annual financial statement and filing fee; notice  
 163 of change of ownership.--

164 (2) Each authorized administrator shall also file with the  
 165 office, on or before June 1 for the preceding calendar year  
 166 ending December 31, an audited financial statement performed by

167 an independent certified public accountant. An audited financial  
 168 statement prepared on a consolidated basis shall include a  
 169 columnar consolidating or combining worksheet that shall be  
 170 filed with the statement, and shall comply with the following:

171 (a) Amounts shown on the consolidated audited financial  
 172 statement shall be shown on the worksheet.

173 (b) Amounts for each entity shall be stated separately.

174 (c) Explanations of consolidating and eliminating entries  
 175 shall be included.

176 (5) The commission may by rule require all or part of the  
 177 reports or filings required under this section to be submitted  
 178 by electronic means in a computer-readable form compatible with  
 179 the electronic data format specified by the commission.

180 Section 5. Section 626.8991, Florida Statutes, is created  
 181 to read:

182 626.8991 Adoption of rules.--The commission may adopt  
 183 rules necessary to administer the provisions of this part.

184 Section 6. This act shall take effect October 1, 2005.