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1 A bill to be entitled
2 An act relating to health insurance marketing
3 materials; amending ss. 627.6699 and 627.9407, F.S.;
4 authorizing a health insurer to immediately begin
5 using long-term care insurance advertising material
6 under certain circumstances; providing that rules
7 adopted by the Financial Services Commission to
8 establish the format for the notice of the estimated
9 premium impact of the federal Patient Protection and
10 Affordable Care Act pursuant to specified legislation
11 are not subject to s. 120.541(3), F.S., relating to
12 the adverse impact or regulatory costs of a rule;
13 providing an effective date.

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

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17 Section 1. Paragraph (d) of subsection (12) of section
18 627.6699, Florida Statutes, is amended to read:

19 627.6699 Employee Health Care Access Act.—

20 (12) STANDARD, BASIC, HIGH DEDUCTIBLE, AND LIMITED HEALTH
21 BENEFIT PLANS.—

22 (d)1. Upon offering coverage under a standard health
23 benefit plan, a basic health benefit plan, or a limited benefit
24 policy or contract for a any small employer group, the small
25 employer carrier shall provide such employer group with a
26 written statement that contains, at a minimum:

27 a. An explanation of those mandated benefits and providers
28 that are not covered by the policy or contract;

29 b. An explanation of the managed care and cost control

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30 features of the policy or contract, along with all appropriate
31 mailing addresses and telephone numbers to be used by insureds
32 in seeking information or authorization; and

33 c. An explanation of the primary and preventive care
34 features of the policy or contract.

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36 Such disclosure statement must be presented in a clear and
37 understandable form and format and must be separate from the
38 policy or certificate or evidence of coverage provided to the
39 employer group.

40 2. Before a small employer carrier issues a standard health
41 benefit plan, a basic health benefit plan, or a limited benefit
42 policy or contract, the carrier ~~it~~ must obtain from the
43 prospective policyholder a signed written statement in which the
44 prospective policyholder:

45 a. Certifies as to eligibility for coverage under the
46 standard health benefit plan, basic health benefit plan, or
47 limited benefit policy or contract;

48 b. Acknowledges the limited nature of the coverage and an
49 understanding of the managed care and cost control features of
50 the policy or contract;

51 c. Acknowledges that if misrepresentations are made
52 regarding eligibility for coverage under a standard health
53 benefit plan, a basic health benefit plan, or a limited benefit
54 policy or contract, the person making such misrepresentations
55 forfeits coverage provided by the policy or contract; and

56 d. If a limited plan is requested, acknowledges that the
57 prospective policyholder had been offered, at the time of
58 application for the insurance policy or contract, the

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59 opportunity to purchase any health benefit plan offered by the
60 carrier and that the prospective policyholder ~~had~~ rejected that
61 coverage.

62
63 A copy of such written statement must ~~shall~~ be provided to the
64 prospective policyholder by ~~no later than~~ at the time of
65 delivery of the policy or contract, and the original of such
66 written statement must ~~shall~~ be retained in the files of the
67 small employer carrier for the period of time that the policy or
68 contract remains in effect or for 5 years, whichever ~~period~~ is
69 longer.

70 3. Any material statement made by an applicant for coverage
71 under a health benefit plan which falsely certifies ~~as to~~ the
72 applicant's eligibility for coverage serves as the basis for
73 terminating coverage under the policy or contract.

74 ~~4. Each marketing communication that is intended to be used~~
75 ~~in the marketing of a health benefit plan in this state must be~~
76 ~~submitted for review by the office prior to use and must contain~~
77 ~~the disclosures stated in this subsection.~~

78 Section 2. Subsection (2) of section 627.9407, Florida
79 Statutes, is amended to read:

80 627.9407 Disclosure, advertising, and performance standards
81 for long-term care insurance.—

82 (2) ADVERTISING.—The commission shall adopt rules
83 establishing ~~setting forth~~ standards for the advertising,
84 marketing, and sale of long-term care insurance policies in
85 order to protect applicants from unfair or deceptive sales or
86 enrollment practices. An insurer shall file with the office any
87 long-term care insurance advertising material intended for use

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88 in this state and may immediately begin using such material upon
89 filing, subject to subsequent disapproval by the office.
90 Following receipt of a notice of disapproval or a withdrawal of
91 approval, the insurer must immediately cease use of the
92 disapproved material at least 30 days before the date of use of
93 the advertisement in this state. Within 30 days after the date
94 of receipt of the advertising material, the office shall review
95 the material and shall disapprove any advertisement if, in the
96 opinion of the office, such advertisement violates any of the
97 provisions of this part or of part IX of chapter 626 or any rule
98 of the commission. The office may also disapprove an
99 advertisement at any time and enter an immediate order requiring
100 that the use of the advertisement be discontinued if it
101 determines that the advertisement violates any of the provisions
102 of this part, or of part IX of chapter 626, or any rule of the
103 commission.

104 Section 3. The rules adopted by the Financial Services
105 Commission to establish the format for the notice of the
106 estimated premium impact of the federal Patient Protection and
107 Affordable Care Act pursuant to s. 627.410, Florida Statutes, as
108 amended by Senate Bill 1842, House Bill 7155, or similar
109 legislation adopted in the same legislative session or an
110 extension thereof, are not subject to s. 120.541(3), Florida
111 Statutes.

112 Section 4. This act shall take effect July 1, 2013.