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1  
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.  
14

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

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.

35

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.