



LEGISLATIVE ACTION

Senate	.	House
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03/09/2016 05:01 PM	.	
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Senator Hays moved the following:

1           **Senate Substitute for Amendment (503040) (with title**  
2 **amendment)**

3  
4           Between lines 960 and 961  
5 insert:

6           Section 20. Effective January 1, 2018, section 627.42393,  
7 Florida Statutes, is created to read:

8           627.42393 Continuity of care for medically stable  
9 patients.-

10           (1) As used in this section, the term:

11           (a) "Complex or chronic medical condition" means a



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12 physical, behavioral, or developmental condition that does not  
13 have a known cure or that can be severely debilitating or fatal  
14 if left untreated or undertreated.

15 (b) "Rare disease" has the same meaning as in the Public  
16 Health Service Act, 42 U.S.C. s. 287a-1.

17 (2) A pharmacy benefits manager or an individual or group  
18 insurance policy that is delivered, issued for delivery,  
19 renewed, amended, or continued in this state and that provides  
20 medical, major medical, or similar comprehensive coverage must  
21 continue to cover a drug for an insured with a complex or  
22 chronic medical condition or a rare disease if:

23 (a) The drug was previously covered by the insurer for a  
24 medical condition or disease of the insured; and

25 (b) The prescribing provider continues to prescribe the  
26 drug for the medical condition or disease, provided that the  
27 drug is appropriately prescribed and neither of the following  
28 has occurred:

29 1. The United States Food and Drug Administration has  
30 issued a notice, guidance, warning, announcement, or any other  
31 statement about the drug which calls into question the clinical  
32 safety of the drug; or

33 2. The manufacturer of the drug has notified the United  
34 States Food and Drug Administration of any manufacturing  
35 discontinuance or potential discontinuance as required by s.  
36 506C of the Federal Food Drug and Cosmetic Act, 21 U.S.C. s.  
37 356c.

38 (3) With respect to a drug for an insured with a complex or  
39 chronic medical condition or a rare disease which meets the  
40 conditions of paragraphs (2) (a) and (2) (b), except during open



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41 enrollment periods, a pharmacy benefits manager or an individual  
42 or group insurance policy may not:

43 (a) Set forth, by contract, limitations on maximum coverage  
44 of prescription drug benefits;

45 (b) Subject the insured to increased out-of-pocket costs;  
46 or

47 (c) Move a drug for an insured to a more restrictive tier,  
48 if an individual or group insurance policy or a pharmacy  
49 benefits manager uses a formulary with tiers.

50 (4) This section does not apply to a grandfathered health  
51 plan as defined in s. 627.402, or to benefits set forth in s.  
52 627.6561(5)(b), (c), (d), and (e).

53 Section 21. Effective January 1, 2018, paragraph (e) of  
54 subsection (5) of section 627.6699, Florida Statutes, is amended  
55 to read:

56 627.6699 Employee Health Care Access Act.—

57 (5) AVAILABILITY OF COVERAGE.—

58 (e) All health benefit plans issued under this section must  
59 comply with the following conditions:

60 1. For employers who have fewer than two employees, a late  
61 enrollee may be excluded from coverage for no longer than 24  
62 months if he or she was not covered by creditable coverage  
63 continually to a date not more than 63 days before the effective  
64 date of his or her new coverage.

65 2. Any requirement used by a small employer carrier in  
66 determining whether to provide coverage to a small employer  
67 group, including requirements for minimum participation of  
68 eligible employees and minimum employer contributions, must be  
69 applied uniformly among all small employer groups having the



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70 same number of eligible employees applying for coverage or  
71 receiving coverage from the small employer carrier, except that  
72 a small employer carrier that participates in, administers, or  
73 issues health benefits pursuant to s. 381.0406 which do not  
74 include a preexisting condition exclusion may require as a  
75 condition of offering such benefits that the employer has had no  
76 health insurance coverage for its employees for a period of at  
77 least 6 months. A small employer carrier may vary application of  
78 minimum participation requirements and minimum employer  
79 contribution requirements only by the size of the small employer  
80 group.

81 3. In applying minimum participation requirements with  
82 respect to a small employer, a small employer carrier shall not  
83 consider as an eligible employee employees or dependents who  
84 have qualifying existing coverage in an employer-based group  
85 insurance plan or an ERISA qualified self-insurance plan in  
86 determining whether the applicable percentage of participation  
87 is met. However, a small employer carrier may count eligible  
88 employees and dependents who have coverage under another health  
89 plan that is sponsored by that employer.

90 4. A small employer carrier shall not increase any  
91 requirement for minimum employee participation or any  
92 requirement for minimum employer contribution applicable to a  
93 small employer at any time after the small employer has been  
94 accepted for coverage, unless the employer size has changed, in  
95 which case the small employer carrier may apply the requirements  
96 that are applicable to the new group size.

97 5. If a small employer carrier offers coverage to a small  
98 employer, it must offer coverage to all the small employer's



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99 eligible employees and their dependents. A small employer  
100 carrier may not offer coverage limited to certain persons in a  
101 group or to part of a group, except with respect to late  
102 enrollees.

103 6. A small employer carrier may not modify any health  
104 benefit plan issued to a small employer with respect to a small  
105 employer or any eligible employee or dependent through riders,  
106 endorsements, or otherwise to restrict or exclude coverage for  
107 certain diseases or medical conditions otherwise covered by the  
108 health benefit plan.

109 7. An initial enrollment period of at least 30 days must be  
110 provided. An annual 30-day open enrollment period must be  
111 offered to each small employer's eligible employees and their  
112 dependents. A small employer carrier must provide special  
113 enrollment periods as required by s. 627.65615.

114 8. A small employer carrier must provide continuity of care  
115 for medically stable patients as required by s. 627.42392.

116 Section 22. Effective January 1, 2018, subsection (44) is  
117 added to section 641.31, Florida Statutes, to read:

118 641.31 Health maintenance contracts.—

119 (44) (a) As used in this subsection, the term:

120 1. "Complex or chronic medical condition" means a physical,  
121 behavioral, or developmental condition that does not have a  
122 known cure or that can be severely debilitating or fatal if left  
123 untreated or undertreated.

124 2. "Rare disease" has the same meaning as in the Public  
125 Health Service Act, 42 U.S.C. s. 287a-1.

126 (b) A pharmacy benefits manager or a health maintenance  
127 contract that is delivered, issued for delivery, renewed,



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128 amended, or continued in this state and that provides medical,  
129 major medical, or similar comprehensive coverage must continue  
130 to cover a drug for a subscriber with a complex or chronic  
131 medical condition or a rare disease if:

132 1. The drug was previously covered by the health  
133 maintenance organization for a medical condition or disease of  
134 the subscriber; and

135 2. The prescribing provider continues to prescribe the drug  
136 for the medical condition or disease, provided that the drug is  
137 appropriately prescribed and neither of the following has  
138 occurred:

139 a. The United States Food and Drug Administration has  
140 issued a notice, guidance, warning, announcement, or any other  
141 statement about the drug which calls into question the clinical  
142 safety of the drug; or

143 b. The manufacturer of the drug has notified the United  
144 States Food and Drug Administration of any manufacturing  
145 discontinuance or potential discontinuance as required by s.  
146 506C of the Federal Food Drug and Cosmetic Act, 21 U.S.C. s.  
147 356c.

148 (c) With respect to a drug for a subscriber with a complex  
149 or chronic medical condition or a rare disease which meets the  
150 conditions of subparagraphs (b)1. and (b)2., except during open  
151 enrollment periods, a pharmacy benefits manager or a health  
152 maintenance contract may not:

153 1. Set forth, by contract, limitations on maximum coverage  
154 of prescription drug benefits;

155 2. Subject the subscriber to increased out-of-pocket costs;  
156 or



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157        3. Move a drug for a subscriber to a more restrictive tier,  
158 if a health maintenance contract or a pharmacy benefits manager  
159 uses a formulary with tiers.

160        (d) This section does not apply to a grandfathered health  
161 plan as defined in s. 627.402.

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

164 And the title is amended as follows:

165        Between lines 71 and 72

166 insert:

167        creating s. 627.42392, F.S.; defining terms; requiring  
168        a pharmacy benefits manager or a specified individual  
169        or group insurance policy to continue to cover a drug  
170        for specified insureds under certain circumstances;  
171        prohibiting certain actions by a pharmacy benefits  
172        manager or an individual or group policy with respect  
173        to a drug for a certain insured except under certain  
174        circumstances; providing applicability; amending s.  
175        627.6699, F.S.; expanding a list of conditions that  
176        certain health benefit plans must comply with;  
177        amending s. 641.31, F.S.; defining terms; requiring a  
178        pharmacy benefits manager or a specified health  
179        maintenance contract to continue to cover a drug for  
180        specified subscribers under certain circumstances;  
181        prohibiting certain actions by a pharmacy benefits  
182        manager or a health maintenance contract with respect  
183        to a drug for a certain subscriber except under  
184        certain circumstances; providing applicability;