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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/19/2017	.	
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The Committee on Rules (Flores) recommended the following:

1 **Senate Amendment to Amendment (321438) (with title**
2 **amendment)**

3
4 Delete line 29

5 and insert:

6 Section 3. Subsection (1) of section 626.88, Florida
7 Statutes, is amended to read:

8 626.88 Definitions.—For the purposes of this part, the
9 term:

10 (1) "Administrator" is any person who directly or
11 indirectly solicits or effects coverage of, collects charges or



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12 premiums from, or adjusts or settles claims on residents of this
13 state in connection with authorized commercial self-insurance
14 funds or with insured or self-insured programs which provide
15 life or health insurance coverage or coverage of any other
16 expenses described in s. 624.33(1); ~~or~~ any person who, through a
17 health care risk contract as defined in s. 641.234 with an
18 insurer or health maintenance organization, provides billing and
19 collection services to health insurers and health maintenance
20 organizations on behalf of health care providers; or a pharmacy
21 benefits manager as defined in s. 465.1862(1). The term does not
22 include the following persons, other than any of the following
23 persons:

24 (a) An employer or wholly owned direct or indirect
25 subsidiary of an employer, on behalf of such employer's
26 employees or the employees of one or more subsidiary or
27 affiliated corporations of such employer.

28 (b) A union on behalf of its members.

29 (c) An insurance company which is either authorized to
30 transact insurance in this state or is acting as an insurer with
31 respect to a policy lawfully issued and delivered by such
32 company in and pursuant to the laws of a state in which the
33 insurer was authorized to transact an insurance business.

34 (d) A health care services plan, health maintenance
35 organization, professional service plan corporation, or person
36 in the business of providing continuing care, possessing a valid
37 certificate of authority issued by the office, and the sales
38 representatives thereof, if the activities of such entity are
39 limited to the activities permitted under the certificate of
40 authority.



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

52 (f) A nonresident entity licensed in its state of domicile
53 as an administrator if its duties in this state are limited to
54 the administration of a group policy or plan of insurance and no
55 more than a total of 100 lives for all plans reside in this
56 state.

57 (g) An insurance agent licensed in this state whose
58 activities are limited exclusively to the sale of insurance.

59 (h) A person licensed as a managing general agent in this
60 state, whose activities are limited exclusively to the scope of
61 activities conveyed under such license.

62 (i) An adjuster licensed in this state whose activities are
63 limited to the adjustment of claims.

64 (j) A creditor on behalf of such creditor's debtors with
65 respect to insurance covering a debt between the creditor and
66 its debtors.

67 (k) A trust and its trustees, agents, and employees acting
68 pursuant to such trust established in conformity with 29 U.S.C.
69 s. 186.



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70 (l) A trust exempt from taxation under s. 501(a) of the
71 Internal Revenue Code, a trust satisfying the requirements of
72 ss. 624.438 and 624.439, or any governmental trust as defined in
73 s. 624.33(3), and the trustees and employees acting pursuant to
74 such trust, or a custodian and its agents and employees,
75 including individuals representing the trustees in overseeing
76 the activities of a service company or administrator, acting
77 pursuant to a custodial account which meets the requirements of
78 s. 401(f) of the Internal Revenue Code.

79 (m) A financial institution which is subject to supervision
80 or examination by federal or state authorities or a mortgage
81 lender licensed under chapter 494 who collects and remits
82 premiums to licensed insurance agents or authorized insurers
83 concurrently or in connection with mortgage loan payments.

84 (n) A credit card issuing company which advances for and
85 collects premiums or charges from its credit card holders who
86 have authorized such collection if such company does not adjust
87 or settle claims.

88 (o) A person who adjusts or settles claims in the normal
89 course of such person's practice or employment as an attorney at
90 law and who does not collect charges or premiums in connection
91 with life or health insurance coverage.

92 (p) A person approved by the department who administers
93 only self-insured workers' compensation plans.

94 (q) A service company or service agent and its employees,
95 authorized in accordance with ss. 626.895-626.899, serving only
96 a single employer plan, multiple-employer welfare arrangements,
97 or a combination thereof.

98 (r) Any provider or group practice, as defined in s.



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99 456.053, providing services under the scope of the license of
100 the provider or the member of the group practice.

101 (s) Any hospital providing billing, claims, and collection
102 services solely on its own and its physicians' behalf and
103 providing services under the scope of its license.

104 (t) A corporation not for profit whose membership consists
105 entirely of local governmental units authorized to enter into
106 risk management consortiums under s. 112.08.

107
108 A person who provides billing and collection services to health
109 insurers and health maintenance organizations on behalf of
110 health care providers shall comply with ~~the provisions of~~ ss.
111 627.6131, 641.3155, and 641.51(4).

112 Section 4. Present subsection (6) of section 626.8805,
113 Florida Statutes, is redesignated as subsection (7), and a new
114 subsection (6) is added to that section, to read:

115 626.8805 Certificate of authority to act as administrator.-

116 (6) The office shall conduct quarterly audits of each
117 pharmacy benefits manager who holds a certificate of authority
118 to act as an administrator under this part for the purpose of
119 determining whether the pharmacy benefits manager violated any
120 provision of s. 465.1862 or failed to perform as required under
121 that section.

122 Section 5. Subsection (2) of section 626.891, Florida
123 Statutes, is amended to read:

124 626.891 Grounds for suspension or revocation of certificate
125 of authority.-

126 (2) The office may, in its discretion, suspend or revoke
127 the certificate of authority of an administrator if it finds



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128 that the administrator:

129 (a) Has violated any lawful rule or order of the commission
130 or office, or any provision of this chapter, s. 465.1862, or s.
131 465.1885;

132 (b) Has refused to be examined or to produce its accounts,
133 records, and files for examination, or if any of its officers
134 has refused to give information with respect to its affairs or
135 has refused to perform any other legal obligation as to such
136 examination, when required by the office;

137 (c) Has, without just cause, refused to pay proper claims
138 or perform services arising under its contracts or has, without
139 just cause, compelled insured persons to accept less than the
140 amount due them or to employ attorneys or bring suit against the
141 administrator to secure full payment or settlement of such
142 claims;

143 (d) Is or was affiliated with and under the same general
144 management or interlocking directorate or ownership as another
145 administrator which transacts business in this state without
146 having a certificate of authority;

147 (e) At any time fails to meet any qualification for which
148 issuance of the certificate could have been refused had such
149 failure then existed and been known to the office;

150 (f) Has been convicted of, or has entered a plea of guilty
151 or nolo contendere to, a felony relating to the business of
152 insurance or insurance administration in this state or in any
153 other state without regard to whether adjudication was withheld;
154 or

155 (g) Is under suspension or revocation in another state.
156 Section 6. Subsection (3) of section 626.894, Florida



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157 Statutes, is amended to read:

158 626.894 Administrative fine in lieu of suspension or
159 revocation.—

160 (3) With respect to any knowing and willful violation of a
161 lawful order or rule of the office or commission, ~~or~~ a provision
162 of this part, s. 465.1862, or s. 465.1885, the office may impose
163 a fine upon the administrator in an amount not to exceed \$5,000
164 for each such violation. In no event may such fine exceed an
165 aggregate amount of \$25,000 for all knowing and willful
166 violations arising out of the same action. In addition to such
167 fine, the administrator shall make restitution when due in
168 accordance with the provisions of subsection (2).

169 Section 7. Until December 31, 2017, the Office of Insurance
170 Regulation may not penalize a pharmacy benefits manager, as
171 defined in s. 465.1862(1), Florida Statutes, for operating as an
172 administrator if the pharmacy benefits manager applies for a
173 certificate of authority by October 1, 2017, and is issued such
174 certificate of authority by December 31, 2017.

175 Section 8. This act shall take effect July 1, 2017.

176

177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete lines 36 - 44

180 and insert:

181 An act relating to health care; amending s. 627.6131,
182 F.S.; prohibiting a health insurer from retroactively
183 denying a claim under specified circumstances;
184 providing applicability; amending s. 641.3155, F.S.;

185 prohibiting a health maintenance organization from



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186 retroactively denying a claim under specified
187 circumstances; providing applicability; exempting
188 certain Medicaid managed care plans; amending s.
189 626.88, F.S.; redefining the term "administrator" to
190 include a pharmacy benefits manager; amending s.
191 626.8805, F.S.; requiring the Office of Insurance
192 Regulation to conduct quarterly audits, for a certain
193 purpose, of pharmacy benefits managers that hold
194 certificates of authority to act as administrators;
195 amending ss. 626.891 and 626.894, F.S.; adding
196 violations of certain provisions of the Florida
197 Pharmacy Act as grounds for the office's suspension or
198 revocation of an administrator's certificate of
199 authority or imposition of a fine, respectively;
200 prohibiting the office, until a specified date, from
201 penalizing a pharmacy benefits manager for operating
202 as an administrator if the pharmacy benefits manager
203 meets certain conditions; providing an effective date.