



284826

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/22/2017	.	
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The Committee on Health Policy (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (k) is added to subsection (3) of
section 110.123, Florida Statutes, to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(k) Sections 627.42393 and 641.31(36)(a) do not apply to
the state group insurance program.



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11 Section 2. Section 627.42393, Florida Statutes, is created
12 to read:

13 627.42393 Insurance policies; limiting changes to
14 prescription drug formularies.-

15 (1) Other than at the time of coverage renewal, an
16 individual or group insurance policy that is delivered, issued
17 for delivery, renewed, amended, or continued in this state and
18 that provides medical, major medical, or similar comprehensive
19 coverage may not:

20 (a) Remove a covered prescription drug from its list of
21 covered drugs during the policy year unless the United States
22 Food and Drug Administration has issued a statement about the
23 drug which calls into question the clinical safety of the drug,
24 or the manufacturer of the drug has notified the United States
25 Food and Drug Administration of a manufacturing discontinuance
26 or potential discontinuance of the drug as required by s. 506C
27 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

28 (b) Reclassify a drug to a more restrictive drug tier or
29 increase the amount that an insured must pay for a copayment,
30 coinsurance, or deductible for prescription drug benefits, or
31 reclassify a drug to a higher cost-sharing tier during the
32 policy year.

33 (2) This section does not prohibit the addition of
34 prescription drugs to the list of drugs covered under the policy
35 during the policy year.

36 (3) This section does not apply to a grandfathered health
37 plan as defined in s. 627.402 or to benefits set forth in s.
38 627.6513(1)-(14).

39 (4) This section does not alter or amend s. 465.025, which



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40 provides conditions under which a pharmacist may substitute a
41 generically equivalent drug product for a brand name drug
42 product.

43 (5) This section does not alter or amend s. 465.0252, which
44 provides conditions under which a pharmacist may dispense a
45 substitute biological product for the prescribed biological
46 product.

47 Section 3. Paragraph (e) of subsection (5) of section
48 627.6699, Florida Statutes, is amended to read:

49 627.6699 Employee Health Care Access Act.—

50 (5) AVAILABILITY OF COVERAGE.—

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

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

58 2. Any requirement used by a small employer carrier in
59 determining whether to provide coverage to a small employer
60 group, including requirements for minimum participation of
61 eligible employees and minimum employer contributions, must be
62 applied uniformly among all small employer groups having the
63 same number of eligible employees applying for coverage or
64 receiving coverage from the small employer carrier, except that
65 a small employer carrier that participates in, administers, or
66 issues health benefits pursuant to s. 381.0406 which do not
67 include a preexisting condition exclusion may require as a
68 condition of offering such benefits that the employer has had no



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69 health insurance coverage for its employees for a period of at
70 least 6 months. A small employer carrier may vary application of
71 minimum participation requirements and minimum employer
72 contribution requirements only by the size of the small employer
73 group.

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

83 4. A small employer carrier shall not increase any
84 requirement for minimum employee participation or any
85 requirement for minimum employer contribution applicable to a
86 small employer at any time after the small employer has been
87 accepted for coverage, unless the employer size has changed, in
88 which case the small employer carrier may apply the requirements
89 that are applicable to the new group size.

90 5. If a small employer carrier offers coverage to a small
91 employer, it must offer coverage to all the small employer's
92 eligible employees and their dependents. A small employer
93 carrier may not offer coverage limited to certain persons in a
94 group or to part of a group, except with respect to late
95 enrollees.

96 6. A small employer carrier may not modify any health
97 benefit plan issued to a small employer with respect to a small



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98 employer or any eligible employee or dependent through riders,
99 endorsements, or otherwise to restrict or exclude coverage for
100 certain diseases or medical conditions otherwise covered by the
101 health benefit plan.

102 7. An initial enrollment period of at least 30 days must be
103 provided. An annual 30-day open enrollment period must be
104 offered to each small employer's eligible employees and their
105 dependents. A small employer carrier must provide special
106 enrollment periods as required by s. 627.65615.

107 8. A small employer carrier must limit changes to
108 prescription drug formularies as required by s. 627.42393.

109 Section 4. Subsection (36) of section 641.31, Florida
110 Statutes, is amended to read:

111 641.31 Health maintenance contracts.—

112 (36) A health maintenance organization may increase the
113 copayment for any benefit, or delete, amend, or limit any of the
114 benefits to which a subscriber is entitled under the group
115 contract only, upon written notice to the contract holder at
116 least 45 days in advance of the time of coverage renewal. The
117 health maintenance organization may amend the contract with the
118 contract holder, with such amendment to be effective immediately
119 at the time of coverage renewal. The written notice to the
120 contract holder must ~~shall~~ specifically identify any deletions,
121 amendments, or limitations to any of the benefits provided in
122 the group contract during the current contract period which will
123 be included in the group contract upon renewal. This subsection
124 does not apply to any increases in benefits. The 45-day notice
125 requirement does ~~shall~~ not apply if benefits are amended,
126 deleted, or limited at the request of the contract holder.



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127 (a) Other than at the time of coverage renewal, a health
128 maintenance organization that provides medical, major medical,
129 or similar comprehensive coverage may not:

130 1. Remove a covered prescription drug from its list of
131 covered drugs during the contract year unless the United States
132 Food and Drug Administration has issued a statement about the
133 drug which calls into question the clinical safety of the drug,
134 or the manufacturer of the drug has notified the United States
135 Food and Drug Administration of a manufacturing discontinuance
136 or potential discontinuance of the drug as required by s. 506C
137 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

138 2. Reclassify a drug to a more restrictive drug tier or
139 increase the amount that an insured must pay for a copayment,
140 coinsurance, or deductible for prescription drug benefits, or
141 reclassify a drug to a higher cost-sharing tier during the
142 contract year.

143 (b) This subsection does not:

144 1. Prohibit the addition of prescription drugs to the list
145 of drugs covered during the contract year.

146 2. Apply to a grandfathered health plan as defined in s.
147 627.402 or to benefits set forth in s. 627.6513(1)-(14).

148 3. Alter or amend s. 465.025, which provides conditions
149 under which a pharmacist may substitute a generically equivalent
150 drug product for a brand name drug product.

151 4. Alter or amend s. 465.0252, which provides conditions
152 under which a pharmacist may dispense a substitute biological
153 product for the prescribed biological product.

154 Section 5. The Legislature finds that this act fulfills an
155 important state interest.



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156 Section 6. This act shall take effect January 1, 2018.

157

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

159 And the title is amended as follows:

160 Delete everything before the enacting clause
161 and insert:

162 A bill to be entitled
163 An act relating to consumer protection from nonmedical
164 changes to prescription drug formularies; amending s.
165 110.123, F.S.; providing that certain provisions
166 prohibiting nonmedical changes to prescription drug
167 formularies do not apply to the state group insurance
168 program; creating s. 627.42393, F.S.; limiting, under
169 specified circumstances, changes to a health insurance
170 policy prescription drug formulary during a policy
171 year; providing construction and applicability;
172 amending s. 627.6699, F.S.; requiring small employer
173 carriers to limit changes to prescription drug
174 formularies under certain circumstances; amending s.
175 641.31, F.S.; limiting, under specified circumstances,
176 changes to a health maintenance contract prescription
177 drug formulary during a contract year; providing
178 construction and applicability; providing a
179 declaration of important state interest; providing an
180 effective date.