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LEGISLATIVE ACTION

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

1 **Senate Substitute for Amendment (284826) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 627.42393, Florida Statutes, is created
7 to read:

8 627.42393 Insurance policies; limiting changes to
9 prescription drug formularies.—

10 (1) Other than at the time of coverage renewal, an



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11 individual or group insurance policy that is delivered, issued
12 for delivery, renewed, amended, or continued in this state and
13 that provides medical, major medical, or similar comprehensive
14 coverage may not:

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

23 (b) Reclassify a drug to a more restrictive drug tier or
24 increase the amount that an insured must pay for a copayment,
25 coinsurance, or deductible for prescription drug benefits, or
26 reclassify a drug to a higher cost-sharing tier during the
27 policy year.

28 (2) This section does not prohibit the addition of
29 prescription drugs to the list of drugs covered under the policy
30 during the policy year.

31 (3) This section does not apply to a grandfathered health
32 plan as defined in s. 627.402 or to benefits set forth in s.
33 627.6513(1)-(14).

34 (4) This section does not alter or amend s. 465.025, which
35 provides conditions under which a pharmacist may substitute a
36 generically equivalent drug product for a brand name drug
37 product.

38 (5) This section does not alter or amend s. 465.0252, which
39 provides conditions under which a pharmacist may dispense a



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40 substitute biological product for the prescribed biological
41 product.

42 Section 2. Paragraph (e) of subsection (5) of section
43 627.6699, Florida Statutes, is amended to read:

44 627.6699 Employee Health Care Access Act.—

45 (5) AVAILABILITY OF COVERAGE.—

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

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

53 2. Any requirement used by a small employer carrier in
54 determining whether to provide coverage to a small employer
55 group, including requirements for minimum participation of
56 eligible employees and minimum employer contributions, must be
57 applied uniformly among all small employer groups having the
58 same number of eligible employees applying for coverage or
59 receiving coverage from the small employer carrier, except that
60 a small employer carrier that participates in, administers, or
61 issues health benefits pursuant to s. 381.0406 which do not
62 include a preexisting condition exclusion may require as a
63 condition of offering such benefits that the employer has had no
64 health insurance coverage for its employees for a period of at
65 least 6 months. A small employer carrier may vary application of
66 minimum participation requirements and minimum employer
67 contribution requirements only by the size of the small employer
68 group.



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

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

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

91 6. A small employer carrier may not modify any health
92 benefit plan issued to a small employer with respect to a small
93 employer or any eligible employee or dependent through riders,
94 endorsements, or otherwise to restrict or exclude coverage for
95 certain diseases or medical conditions otherwise covered by the
96 health benefit plan.

97 7. An initial enrollment period of at least 30 days must be



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98 provided. An annual 30-day open enrollment period must be
99 offered to each small employer's eligible employees and their
100 dependents. A small employer carrier must provide special
101 enrollment periods as required by s. 627.65615.

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

104 Section 3. Subsection (36) of section 641.31, Florida
105 Statutes, is amended to read:

106 641.31 Health maintenance contracts.—

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

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

125 1. Remove a covered prescription drug from its list of
126 covered drugs during the contract year unless the United States



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127 Food and Drug Administration has issued a statement about the
128 drug which calls into question the clinical safety of the drug,
129 or the manufacturer of the drug has notified the United States
130 Food and Drug Administration of a manufacturing discontinuance
131 or potential discontinuance of the drug as required by s. 506C
132 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

133 2. Reclassify a drug to a more restrictive drug tier or
134 increase the amount that an insured must pay for a copayment,
135 coinsurance, or deductible for prescription drug benefits, or
136 reclassify a drug to a higher cost-sharing tier during the
137 contract year.

138 (b) This subsection does not:

139 1. Prohibit the addition of prescription drugs to the list
140 of drugs covered during the contract year.

141 2. Apply to a grandfathered health plan as defined in s.
142 627.402 or to benefits set forth in s. 627.6513(1)-(14).

143 3. Alter or amend s. 465.025, which provides conditions
144 under which a pharmacist may substitute a generically equivalent
145 drug product for a brand name drug product.

146 4. Alter or amend s. 465.0252, which provides conditions
147 under which a pharmacist may dispense a substitute biological
148 product for the prescribed biological product.

149 Section 4. The Legislature finds that this act fulfills an
150 important state interest.

151 Section 5. This act shall take effect January 1, 2018.

152
153 ===== T I T L E A M E N D M E N T =====

154 And the title is amended as follows:

155 Delete everything before the enacting clause



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156 and insert:

157 A bill to be entitled
158 An act relating to consumer protection from nonmedical
159 changes to prescription drug formularies; creating s.
160 627.42393, F.S.; limiting, under specified
161 circumstances, changes to a health insurance policy
162 prescription drug formulary during a policy year;
163 providing construction and applicability; amending s.
164 627.6699, F.S.; requiring small employer carriers to
165 limit changes to prescription drug formularies under
166 certain circumstances; amending s. 641.31, F.S.;
167 limiting, under specified circumstances, changes to a
168 health maintenance contract prescription drug
169 formulary during a contract year; providing
170 construction and applicability; providing a
171 declaration of important state interest; providing an
172 effective date.
173