

1 A bill to be entitled

2 An act relating to discount plan organizations;
3 revising the titles of ch. 636, F.S., and part II of
4 ch. 636, F.S.; amending s. 636.202, F.S.; revising
5 definitions; amending s. 636.204, F.S.; conforming
6 provisions to changes made by the act; providing an
7 exception for providers under certain circumstances;
8 amending s. 636.206, F.S.; conforming provisions to
9 changes made by the act; providing record keeping
10 requirements for discount plan organizations; amending
11 s. 636.208, F.S.; conforming provisions to changes
12 made by the act; revising a specified condition for a
13 member to receive a reimbursement of certain charges
14 after cancelling a membership in a discount plan
15 organization; amending s. 636.212, F.S.; requiring
16 discount plan organizations or marketers to provide
17 prospective members with certain disclosures;
18 requiring prospective members to acknowledge the
19 receipt and acceptance of such disclosures before
20 enrolling in a discount plan; specifying what a first
21 page is for the purpose of a disclosure requirement on
22 certain materials relating to a discount plan;
23 providing requirements for disclosures made in
24 writing, by electronic means, and by telephone;
25 amending s. 636.214, F.S.; making a technical change;

26 conforming provisions to changes made by the act;
27 amending s. 636.216, F.S.; deleting provisions
28 relating to requirements to file with and obtain
29 approval from the Department of Financial Services of
30 certain charges and forms; conforming provisions to
31 changes made by the act; amending s. 636.228, F.S.;
32 conforming provisions to changes made by the act;
33 authorizing a discount plan organization to delegate
34 functions to its marketers; providing that the
35 discount plan organization is bound to acts of its
36 marketers within the scope of delegation; amending s.
37 636.230, F.S.; authorizing a marketer or discount plan
38 organization to commingle certain products on a single
39 page of certain documents; deleting a requirement for
40 discount medical plan fees to be provided in writing
41 under certain circumstances; amending s. 636.232,
42 F.S.; revising the authority for the Financial
43 Services Commission to adopt rules; amending ss.
44 408.9091, 408.910, 627.64731, 636.003, 636.205,
45 636.207, 636.210, 636.218, 636.220, 636.222, 636.223,
46 636.224, 636.226, 636.234, 636.236, 636.238, 636.240,
47 and 636.244, F.S.; conforming provisions to changes
48 made by the act; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Chapter 636, Florida Statutes, entitled
53 "Prepaid Limited Health Service Organizations and Discount
54 Medical Plan Organizations," is retitled "Prepaid Limited Health
55 Service Organizations and Discount Plan Organizations."

56 Section 2. Part II of chapter 636, Florida Statutes,
57 entitled "Discount Medical Plan Organizations," is retitled
58 "Discount Plan Organizations."

59 Section 3. Section 636.202, Florida Statutes, is amended
60 to read:

61 636.202 Definitions.—As used in this part, the term:

62 (1) "Discount ~~medical~~ plan" means a business arrangement
63 or contract in which a person, in exchange for fees, dues,
64 charges, or other consideration, provides access for plan
65 members to providers of medical services and the right to
66 receive medical services from those providers at a discount. The
67 term "~~discount medical plan~~" does not include any product
68 regulated under chapter 627, chapter 641, or part I of this
69 chapter; ~~or~~ any medical services provided through a
70 telecommunications medium that does not offer a discount to the
71 plan member for those medical services; or any plan that does
72 not charge a fee to plan members. Until June 30, 2018, a
73 discount plan may also be referred to as a discount medical
74 plan.

75 (2) "Discount ~~medical~~ plan organization" means an entity

76 | that ~~which~~, in exchange for fees, dues, charges, or other
 77 | consideration, provides access for plan members to providers of
 78 | medical services and the right to receive medical services from
 79 | those providers at a discount. Until June 30, 2018, a discount
 80 | plan organization may also be referred to as a discount medical
 81 | plan organization.

82 | (3) "Marketer" means a person or entity that ~~which~~
 83 | markets, promotes, sells, or distributes a discount ~~medical~~
 84 | plan, including a private label entity that ~~which~~ places its
 85 | name on and markets or distributes a discount ~~medical~~ plan but
 86 | does not operate a discount ~~medical~~ plan.

87 | (4) "Medical services" means any care, service, or
 88 | treatment of illness or dysfunction of, or injury to, the human
 89 | body, including, but not limited to, physician care, inpatient
 90 | care, hospital surgical services, emergency services, ambulance
 91 | services, dental care services, vision care services, mental
 92 | health services, substance abuse services, chiropractic
 93 | services, podiatric care services, laboratory services, and
 94 | medical equipment and supplies. The term does not include
 95 | pharmaceutical supplies or prescriptions.

96 | (5) "Member" means any person who pays fees, dues,
 97 | charges, or other consideration for the right to receive the
 98 | purported benefits of a discount ~~medical~~ plan.

99 | (6) "Provider" means any person or institution that ~~which~~
 100 | is contracted, directly or indirectly, with a discount ~~medical~~

101 plan organization to provide medical services to members.

102 (7) "Provider network" means an entity that ~~which~~
103 negotiates on behalf of more than one provider with a discount
104 ~~medical~~ plan organization to provide medical services to
105 members.

106 Section 4. Subsections (1), (2), (4), and (6) of section
107 636.204, Florida Statutes, are amended to read:

108 636.204 License required.—

109 (1) Before doing business in this state as a discount
110 ~~medical~~ plan organization, an entity must be a corporation, a
111 limited liability company, or a limited partnership,
112 incorporated, organized, formed, or registered under the laws of
113 this state or authorized to transact business in this state in
114 accordance with chapter 605, part I of chapter 607, chapter 617,
115 chapter 620, or chapter 865, and must be licensed by the office
116 as a discount ~~medical~~ plan organization or be licensed by the
117 office pursuant to chapter 624, part I of this chapter, or
118 chapter 641.

119 (2) An application for a license to operate as a discount
120 ~~medical~~ plan organization must be filed with the office on a
121 form prescribed by the commission. Such application must be
122 sworn to by an officer or authorized representative of the
123 applicant and be accompanied by the following, if applicable:

124 (a) A copy of the applicant's articles of incorporation or
125 other organizing documents, including all amendments.

126 (b) A copy of the applicant's bylaws.

127 (c) A list of the names, addresses, official positions,
128 and biographical information of the individuals who are
129 responsible for conducting the applicant's affairs, including,
130 but not limited to, all members of the board of directors, board
131 of trustees, executive committee, or other governing board or
132 committee, the officers, contracted management company
133 personnel, and any person or entity owning or having the right
134 to acquire 10 percent or more of the voting securities of the
135 applicant. Such listing must fully disclose the extent and
136 nature of any contracts or arrangements between any individual
137 who is responsible for conducting the applicant's affairs and
138 the discount ~~medical~~ plan organization, including any possible
139 conflicts of interest.

140 (d) A complete biographical statement, on forms prescribed
141 by the commission, an independent investigation report, and a
142 set of fingerprints, as provided in chapter 624, with respect to
143 each individual identified under paragraph (c).

144 (e) A statement generally describing the applicant, its
145 facilities and personnel, and the medical services to be
146 offered.

147 (f) A copy of the form of all contracts made or to be made
148 between the applicant and any providers or provider networks
149 regarding the provision of medical services to members.

150 (g) A copy of the form of any contract made or arrangement

151 to be made between the applicant and any person listed in
152 paragraph (c).

153 (h) A copy of the form of any contract made or to be made
154 between the applicant and any person, corporation, partnership,
155 or other entity for the performance on the applicant's behalf of
156 any function, including, but not limited to, marketing,
157 administration, enrollment, investment management, and
158 subcontracting for the provision of health services to members.

159 (i) A copy of the applicant's most recent financial
160 statements audited by an independent certified public
161 accountant. An applicant that is a subsidiary of a parent entity
162 that is publicly traded and that prepares audited financial
163 statements reflecting the consolidated operations of the parent
164 entity and the subsidiary may petition the office to accept, in
165 lieu of the audited financial statement of the applicant, the
166 audited financial statement of the parent entity and a written
167 guaranty by the parent entity that the minimum capital
168 requirements of the applicant required by this part will be met
169 by the parent entity.

170 (j) A description of the proposed method of marketing.

171 (k) A description of the subscriber complaint procedures
172 to be established and maintained.

173 (l) The fee for issuance of a license.

174 (m) Such other information as the commission or office may
175 reasonably require to make the determinations required by this

176 part.

177 (4) Before ~~Prior to~~ licensure by the office, each discount
178 ~~medical~~ plan organization must establish an Internet website so
179 as to conform to the requirements of s. 636.226.

180 (6) This part does not require ~~Nothing in this part~~
181 ~~requires~~ a provider who provides discounts to his or her own
182 patients to obtain and maintain a license as a discount ~~medical~~
183 plan organization. If a provider contracts with a third-party
184 entity to administer or provide a platform for a discount plan,
185 the third-party entity must be licensed as a discount plan
186 organization.

187 Section 5. Section 636.206, Florida Statutes, is amended
188 to read:

189 636.206 Examinations and investigations.—

190 (1) The office may examine or investigate the business and
191 affairs of any discount ~~medical~~ plan organization. The office
192 may order any discount ~~medical~~ plan organization or applicant to
193 produce any records, books, files, advertising and solicitation
194 materials, or other information and may take statements under
195 oath to determine whether the discount ~~medical~~ plan organization
196 or applicant is in violation of the law or is acting contrary to
197 the public interest. The expenses incurred in conducting any
198 examination or investigation must be paid by the discount
199 ~~medical~~ plan organization or applicant. Examinations and
200 investigations must be conducted as provided in chapter 624. For

201 the duration of the agreement with a member, and for 5 years
202 thereafter, a discount plan organization must maintain an
203 accurate record of each member, including the membership
204 materials provided to the member, the discount plan issued to
205 the member, and the charges billed and paid by the member, in a
206 form accessible to the office during an examination or
207 investigation.

208 (2) Failure by the discount ~~medical~~ plan organization to
209 pay the expenses incurred under subsection (1) is grounds for
210 denial or revocation.

211 Section 6. Section 636.208, Florida Statutes, is amended
212 to read:

213 636.208 Fees; charges; reimbursement.—

214 (1) A discount ~~medical~~ plan organization may charge a
215 periodic charge as well as a reasonable one-time processing fee
216 for a discount ~~medical~~ plan.

217 (2) (a) If the member cancels his or her membership in the
218 discount ~~medical~~ plan organization within the first 30 days
219 after the effective date of enrollment in the plan, the member
220 shall receive a reimbursement of all periodic charges upon
221 return of the discount card to the discount ~~medical~~ plan
222 organization.

223 (b) If the member cancels his or her membership in the
224 discount plan organization after the first 30 days, the discount
225 plan organization:

226 1. Must cancel the membership on or before 30 days after
 227 receipt of the member's cancellation request.

228 2. May not charge the member any fees after the effective
 229 date of the cancellation of the membership.

230 3. Must provide a pro rata reimbursement of periodic
 231 charges made for months after cancellation date.

232 (c) If the member cancels his or her membership in the
 233 discount plan organization consistent with the open enrollment
 234 rules established by an employer or association for a plan
 235 having an open enrollment period, the member shall receive a pro
 236 rata reimbursement of all periodic charges upon return of the
 237 discount card to the discount plan organization.

238 (3) If the discount ~~medical~~ plan organization cancels a
 239 membership for any reason other than nonpayment of fees by the
 240 member, the discount ~~medical~~ plan organization must ~~shall~~ make a
 241 pro rata reimbursement of all periodic charges to the member.

242 (4) In addition to the reimbursement of periodic charges
 243 for the reasons stated in subsections (2) and (3), a discount
 244 ~~medical~~ plan organization shall also reimburse the member for
 245 any portion of a one-time processing fee that exceeds \$30 per
 246 year.

247 Section 7. Section 636.212, Florida Statutes, is amended
 248 to read:

249 636.212 Disclosures.—A discount plan organization or
 250 marketer must provide disclosures to a prospective member and

251 the prospective member must acknowledge the acceptance of such
252 disclosures before enrolling in a discount plan. A discount plan
253 organization or marketer may make additional disclosures to
254 those described in paragraph (1) (a). ~~The following disclosures~~
255 ~~must be made in writing to any prospective member and must be on~~
256 ~~the first page of any advertisements, marketing materials, or~~
257 ~~brochures relating to a discount medical plan. The disclosures~~
258 ~~must be printed in not less than 12-point type:~~

259 (1) (a) A disclosure must include:

260 1. That the plan is not insurance.

261 2.~~(2)~~ That the plan provides discounts at certain health
262 care providers for medical services.

263 3.~~(3)~~ That the plan does not make payments directly to the
264 providers of medical services.

265 4.~~(4)~~ That the plan member is obligated to pay for all
266 health care services but will receive a discount from those
267 health care providers who have contracted with the discount plan
268 organization.

269 5.~~(5)~~ The name and address of the licensed discount
270 ~~medical~~ plan organization.

271 (b) The first page of any written advertisements,
272 marketing materials, or brochures relating to a discount plan
273 must include the required disclosures in paragraph (a). The
274 first page is the page that first includes the information that
275 describes benefits of the discount plan. The disclosures must be

276 printed in not less than 12-point type.

277 (c) Disclosures provided by electronic means must include
278 disclosures required in paragraph (a). The disclosures must be
279 in a font size and color that is readable.

280 (d) Disclosures made by telephone must include the
281 disclosures in paragraph (a) and the prospective or new member
282 must be provided with written disclosures in accordance with
283 paragraph (b) in the initial written materials provided.

284

285 ~~If the initial contract is made by telephone, the disclosures~~
286 ~~required by this section shall be made orally and provided in~~
287 ~~the initial written materials that describe the benefits under~~
288 ~~the discount medical plan provided to the prospective or new~~
289 ~~member.~~

290 Section 8. Section 636.214, Florida Statutes, is amended
291 to read:

292 636.214 Provider agreements.—

293 (1) All providers offering medical services to members
294 under a discount ~~medical~~ plan must provide such services
295 pursuant to a written agreement. The agreement may be entered
296 into directly by the provider or by a provider network to which
297 the provider belongs.

298 (2) A provider agreement between a discount ~~medical~~ plan
299 organization and a provider must provide the following:

300 (a) A list of the services and products to be provided at

301 a discount.

302 (b) The amount or amounts of the discounts or,
 303 alternatively, a fee schedule which reflects the provider's
 304 discounted rates.

305 (c) A statement that the provider will not charge members
 306 more than the discounted rates.

307 (3) A provider agreement between a discount ~~medical~~ plan
 308 organization and a provider network must ~~shall~~ require that the
 309 provider network have written agreements with its providers
 310 which:

311 (a) Contain the terms described in subsection (2).

312 (b) Authorize the provider network to contract with the
 313 discount ~~medical~~ plan organization on behalf of the provider.

314 (c) Require the network to maintain an up-to-date list of
 315 its contracted providers and to provide that list on a monthly
 316 basis to the discount ~~medical~~ plan organization.

317 (4) The discount ~~medical~~ plan organization shall maintain
 318 a copy of each active provider agreement into which it has
 319 entered.

320 Section 9. Section 636.216, Florida Statutes, is amended
 321 to read:

322 636.216 Written agreement ~~Charge or Form filings.~~

323 ~~(1) All charges to members must be filed with the office~~
 324 ~~and any charge to members greater than \$30 per month or \$360 per~~
 325 ~~year must be approved by the office before the charges can be~~

326 ~~used. The discount medical plan organization has the burden of~~
327 ~~proof that the charges bear a reasonable relation to the~~
328 ~~benefits received by the member.~~

329 ~~(2) There must be a written agreement between the discount~~
330 ~~medical plan organization and the member specifying the benefits~~
331 ~~under the discount ~~medical~~ plan and complying with the~~
332 ~~disclosure requirements of this part.~~

333 ~~(3) All forms used, including The written agreement~~
334 ~~pursuant to subsection (2), must first be filed with and~~
335 ~~approved by the office. Every form filed shall be identified by~~
336 ~~a unique form number placed in the lower left corner of each~~
337 ~~form.~~

338 ~~(4) A charge or form is considered approved on the 60th~~
339 ~~day after its date of filing unless it has been previously~~
340 ~~disapproved by the office. The office shall disapprove any form~~
341 ~~that does not meet the requirements of this part or that is~~
342 ~~unreasonable, discriminatory, misleading, or unfair. If such~~
343 ~~filings are disapproved, the office shall notify the discount~~
344 ~~medical plan organization and shall specify in the notice the~~
345 ~~reasons for disapproval.~~

346 Section 10. Section 636.228, Florida Statutes, is amended
347 to read:

348 636.228 Marketing of discount ~~medical~~ plans.—

349 (1) All advertisements, marketing materials, brochures,
350 and discount cards used by marketers must be approved in writing

351 ~~for such use~~ by the discount ~~medical~~ plan organization.

352 (2) The discount ~~medical~~ plan organization must ~~shall~~ have
353 an executed written agreement with a marketer before ~~prior to~~
354 the marketer's marketing, promoting, selling, or distributing
355 the discount ~~medical~~ plan. Such agreement must ~~shall~~ prohibit
356 the marketer from using marketing materials, brochures, and
357 discount cards without the approval in writing by the discount
358 ~~medical~~ plan organization. The discount ~~medical~~ plan
359 organization may delegate functions to its marketers but shall
360 be bound by any acts of its marketers, within the scope of the
361 delegation, which marketers' agency, ~~that~~ do not comply with ~~the~~
362 ~~provisions of~~ this part.

363 Section 11. Section 636.230, Florida Statutes, is amended
364 to read:

365 636.230 Bundling discount ~~medical~~ plans with other
366 products.—A marketer or discount plan organization selling a
367 discount plan with medical services and other services may
368 commingle those products on a single page of forms,
369 advertisements, marketing materials, or brochures ~~When a~~
370 ~~marketer or discount medical plan organization sells a discount~~
371 ~~medical plan together with any other product, the fees for the~~
372 ~~discount medical plan must be provided in writing to the member~~
373 ~~if the fees exceed \$30.~~

374 Section 12. Section 636.232, Florida Statutes, is amended
375 to read:

376 636.232 Rules.—The commission may adopt rules to
 377 administer this part, including rules for the licensing of
 378 discount ~~medical~~ plan organizations; ~~establishing standards for~~
 379 ~~evaluating forms, advertisements, marketing materials,~~
 380 ~~brochures, and discount cards;~~ providing for the collection of
 381 data; relating to disclosures to plan members; and defining
 382 terms used in this part.

383 Section 13. Paragraph (b) of subsection (5) of section
 384 408.9091, Florida Statutes, is amended to read:

385 408.9091 Cover Florida Health Care Access Program.—

386 (5) PLAN PROPOSALS.—The agency and the office shall
 387 announce, no later than July 1, 2008, an invitation to negotiate
 388 for Cover Florida plan entities to design a Cover Florida plan
 389 proposal in which benefits and premiums are specified.

390 (b) The agency and the office may announce an invitation
 391 to negotiate for the design of Cover Florida Plus products to
 392 companies that offer supplemental insurance, discount ~~medical~~
 393 plan organizations licensed under part II of chapter 636, or
 394 prepaid health clinics licensed under part II of chapter 641.

395 Section 14. Paragraph (d) of subsection (2) and paragraph
 396 (d) of subsection (4) of section 408.910, Florida Statutes, are
 397 amended to read:

398 408.910 Florida Health Choices Program.—

399 (2) DEFINITIONS.—As used in this section, the term:

400 (d) "Insurer" means an entity licensed under chapter 624

401 which offers an individual health insurance policy or a group
402 health insurance policy, a preferred provider organization as
403 defined in s. 627.6471, an exclusive provider organization as
404 defined in s. 627.6472, ~~or~~ a health maintenance organization
405 licensed under part I of chapter 641, or a prepaid limited
406 health service organization or discount ~~medical~~ plan
407 organization licensed under chapter 636.

408 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the
409 program is voluntary and shall be available to employers,
410 individuals, vendors, and health insurance agents as specified
411 in this subsection.

412 (d) All eligible vendors who choose to participate and the
413 products and services that the vendors are permitted to sell are
414 as follows:

415 1. Insurers licensed under chapter 624 may sell health
416 insurance policies, limited benefit policies, other risk-bearing
417 coverage, and other products or services.

418 2. Health maintenance organizations licensed under part I
419 of chapter 641 may sell health maintenance contracts, limited
420 benefit policies, other risk-bearing products, and other
421 products or services.

422 3. Prepaid limited health service organizations may sell
423 products and services as authorized under part I of chapter 636,
424 and discount ~~medical~~ plan organizations may sell products and
425 services as authorized under part II of chapter 636.

426 4. Prepaid health clinic service providers licensed under
427 part II of chapter 641 may sell prepaid service contracts and
428 other arrangements for a specified amount and type of health
429 services or treatments.

430 5. Health care providers, including hospitals and other
431 licensed health facilities, health care clinics, licensed health
432 professionals, pharmacies, and other licensed health care
433 providers, may sell service contracts and arrangements for a
434 specified amount and type of health services or treatments.

435 6. Provider organizations, including service networks,
436 group practices, professional associations, and other
437 incorporated organizations of providers, may sell service
438 contracts and arrangements for a specified amount and type of
439 health services or treatments.

440 7. Corporate entities providing specific health services
441 in accordance with applicable state law may sell service
442 contracts and arrangements for a specified amount and type of
443 health services or treatments.

444
445 A vendor described in subparagraphs 3.-7. may not sell products
446 that provide risk-bearing coverage unless that vendor is
447 authorized under a certificate of authority issued by the Office
448 of Insurance Regulation and is authorized to provide coverage in
449 the relevant geographic area. Otherwise eligible vendors may be
450 excluded from participating in the program for deceptive or

451 predatory practices, financial insolvency, or failure to comply
 452 with the terms of the participation agreement or other standards
 453 set by the corporation.

454 Section 15. Subsection (11) of section 627.64731, Florida
 455 Statutes, is amended to read:

456 627.64731 Leasing, renting, or granting access to a
 457 participating provider.—

458 (11) This section does not apply to a contract between a
 459 contracting entity and a discount ~~medical~~ plan organization
 460 licensed or exempt under part II of chapter 636.

461 Section 16. Paragraph (c) of subsection (7) of section
 462 636.003, Florida Statutes, is amended to read:

463 636.003 Definitions.—As used in this act, the term:

464 (7) "Prepaid limited health service organization" means
 465 any person, corporation, partnership, or any other entity which,
 466 in return for a prepayment, undertakes to provide or arrange
 467 for, or provide access to, the provision of a limited health
 468 service to enrollees through an exclusive panel of providers.
 469 Prepaid limited health service organization does not include:

470 (c) Any person who is licensed pursuant to part II as a
 471 discount ~~medical~~ plan organization.

472 Section 17. Paragraphs (c) and (d) of subsection (1) of
 473 section 636.205, Florida Statutes, are amended to read:

474 636.205 Issuance of license; denial.—

475 (1) Following receipt of an application filed pursuant to

476 s. 636.204, the office shall review the application and notify
477 the applicant of any deficiencies contained therein. The office
478 shall issue a license to an applicant who has filed a completed
479 application pursuant to s. 636.204 upon payment of the fees
480 specified in s. 636.204 and upon the office being satisfied that
481 the following conditions are met:

482 (c) The ownership, control, and management of the entity
483 are competent and trustworthy and possess managerial experience
484 that would make the proposed operation beneficial to the
485 subscribers. The office may ~~shall~~ not grant or continue to grant
486 authority to transact the business of a discount ~~medical~~ plan
487 organization in this state at any time during which the office
488 has good reason to believe that the ownership, control, or
489 management of the organization includes any person whose
490 business operations are or have been marked by business
491 practices or conduct that is detrimental to the public,
492 stockholders, investors, or creditors.

493 (d) The discount ~~medical~~ plan organization has a complaint
494 procedure that will facilitate the resolution of subscriber
495 grievances and that includes both formal and informal steps
496 available within the organization.

497 Section 18. Section 636.207, Florida Statutes, is amended
498 to read:

499 636.207 Applicability of part.—Except as otherwise
500 provided in this part, discount ~~medical~~ plan organizations are

501 governed by ~~the provisions of~~ this part and are exempt from the
502 Florida Insurance Code unless specifically referenced.

503 Section 19. Section 636.210, Florida Statutes, is amended
504 to read:

505 636.210 Prohibited activities of a discount ~~medical~~ plan
506 organization.—

507 (1) A discount ~~medical~~ plan organization may not:

508 (a) Use in its advertisements, marketing material,
509 brochures, and discount cards the term "insurance" except as
510 otherwise provided in this part or as a disclaimer of any
511 relationship between discount ~~medical~~ plan organization benefits
512 and insurance;

513 (b) Use in its advertisements, marketing material,
514 brochures, and discount cards the terms "health plan,"
515 "coverage," "copay," "copayments," "preexisting conditions,"
516 "guaranteed issue," "premium," "PPO," "preferred provider
517 organization," or other terms in a manner that could reasonably
518 mislead a person into believing the discount ~~medical~~ plan was
519 health insurance;

520 (c) Have restrictions on free access to plan providers,
521 including, but not limited to, waiting periods and notification
522 periods; or

523 (d) Pay providers any fees for medical services.

524 (2) A discount ~~medical~~ plan organization may not collect
525 or accept money from a member for payment to a provider for

526 specific medical services furnished or to be furnished to the
 527 member unless the organization has an active certificate of
 528 authority from the office to act as an administrator.

529 Section 20. Subsection (1), paragraphs (b), (c), and (d)
 530 of subsection (2), and subsection (3) of section 636.218,
 531 Florida Statutes, are amended to read:

532 636.218 Annual reports.—

533 (1) Each discount ~~medical~~ plan organization shall ~~must~~
 534 file with the office, within 3 months after the end of each
 535 fiscal year, an annual report.

536 (2) Such reports must be on forms prescribed by the
 537 commission and must include:

538 (b) If different from the initial application or the last
 539 annual report, a list of the names and residence addresses of
 540 all persons responsible for the conduct of the organization's
 541 affairs, together with a disclosure of the extent and nature of
 542 any contracts or arrangements between such persons and the
 543 discount ~~medical~~ plan organization, including any possible
 544 conflicts of interest.

545 (c) The number of discount ~~medical~~ plan members in the
 546 state.

547 (d) Such other information relating to the performance of
 548 the discount ~~medical~~ plan organization as is reasonably required
 549 by the commission or office.

550 (3) Every discount ~~medical~~ plan organization that ~~which~~

551 fails to file an annual report in the form and within the time
552 required by this section shall forfeit up to \$500 for each day
553 for the first 10 days during which the neglect continues and
554 shall forfeit up to \$1,000 for each day after the first 10 days
555 during which the neglect continues; and, upon notice by the
556 office to that effect, the organization's authority to enroll
557 new members or to do business in this state ceases while such
558 default continues. The office shall deposit all sums collected
559 by the office under this section to the credit of the Insurance
560 Regulatory Trust Fund. The office may not collect more than
561 \$50,000 for each report.

562 Section 21. Section 636.220, Florida Statutes, is amended
563 to read:

564 636.220 Minimum capital requirements.—

565 (1) Each discount ~~medical~~ plan organization shall ~~must~~ at
566 all times maintain a net worth of at least \$150,000.

567 (2) The office may not issue a license unless the discount
568 ~~medical~~ plan organization has a net worth of at least \$150,000.

569 Section 22. Section 636.222, Florida Statutes, is amended
570 to read:

571 636.222 Suspension or revocation of license; suspension of
572 enrollment of new members; terms of suspension.—

573 (1) The office may suspend the authority of a discount
574 ~~medical~~ plan organization to enroll new members, revoke any
575 license issued to a discount ~~medical~~ plan organization, or order

576 | compliance if the office finds that any of the following
 577 | conditions exist:

578 | (a) The organization is not operating in compliance with
 579 | this part.

580 | (b) The organization does not have the minimum net worth
 581 | as required by this part.

582 | (c) The organization has advertised, merchandised, or
 583 | attempted to merchandise its services in such a manner as to
 584 | misrepresent its services or capacity for service or has engaged
 585 | in deceptive, misleading, or unfair practices with respect to
 586 | advertising or merchandising.

587 | (d) The organization is not fulfilling its obligations as
 588 | a ~~medical~~ discount ~~medical~~ plan organization.

589 | (e) The continued operation of the organization would be
 590 | hazardous to its members.

591 | (2) If the office has cause to believe that grounds for
 592 | the suspension or revocation of a license exist, the office must
 593 | ~~shall~~ notify the discount ~~medical~~ plan organization in writing
 594 | specifically stating the grounds for suspension or revocation
 595 | and shall pursue a hearing on the matter in accordance with ~~the~~
 596 | ~~provisions of~~ chapter 120.

597 | (3) When the license of a discount ~~medical~~ plan
 598 | organization is surrendered or revoked, such organization must
 599 | proceed, immediately following the effective date of the order
 600 | of revocation, to wind up its affairs transacted under the

601 license. The organization may not engage in any further
602 advertising, solicitation, collecting of fees, or renewal of
603 contracts.

604 (4) The office shall, in its order suspending the
605 authority of a discount ~~medical~~ plan organization to enroll new
606 members, specify the period during which the suspension is to be
607 in effect and the conditions, if any, which must be met by the
608 discount ~~medical~~ plan organization before ~~prior to~~ reinstatement
609 of its license to enroll new members. The order of suspension is
610 subject to rescission or modification by further order of the
611 office before ~~prior to~~ the expiration of the suspension period.
612 Reinstatement may not be made unless requested by the discount
613 ~~medical~~ plan organization; however, the office may not grant
614 reinstatement if it finds that the circumstances for which the
615 suspension occurred still exist or are likely to recur.

616 Section 23. Section 636.223, Florida Statutes, is amended
617 to read:

618 636.223 Administrative penalty.—In lieu of suspending or
619 revoking a certificate of authority whenever any discount
620 ~~medical~~ plan organization has been found to have violated any
621 provision of this part, the office may:

622 (1) Issue and cause to be served upon the organization
623 charged with the violation a copy of such findings and an order
624 requiring such organization to cease and desist from engaging in
625 the act or practice that constitutes the violation.

626 (2) Impose a monetary penalty of not less than \$100 for
627 each violation, but not to exceed an aggregate penalty of
628 \$75,000.

629 Section 24. Section 636.224, Florida Statutes, is amended
630 to read:

631 636.224 Notice of change of name or address of discount
632 ~~medical~~ plan organization.—Each discount ~~medical~~ plan
633 organization must provide the office at least 30 days' advance
634 notice of any change in the discount ~~medical~~ plan organization's
635 name, address, principal business address, or mailing address.

636 Section 25. Section 636.226, Florida Statutes, is amended
637 to read:

638 636.226 Provider name listing.—Each discount ~~medical~~ plan
639 organization must maintain on an Internet website an up-to-date
640 list of the names and addresses of the providers with which it
641 has contracted, ~~on an Internet website page~~, the address of
642 which must ~~shall~~ be prominently displayed on all its
643 advertisements, marketing materials, brochures, and discount
644 cards. This section applies to those providers with whom the
645 discount ~~medical~~ plan organization has contracted directly, as
646 well as those who are members of a provider network with which
647 the discount ~~medical~~ plan organization has contracted.

648 Section 26. Section 636.234, Florida Statutes, is amended
649 to read:

650 636.234 Service of process on a discount ~~medical~~ plan

651 organization.—Sections 624.422 and 624.423 apply to a discount
652 ~~medical~~ plan organization as if the discount ~~medical~~ plan
653 organization were an insurer.

654 Section 27. Section 636.236, Florida Statutes, is amended
655 to read:

656 636.236 Surety bond or security deposit.—

657 (1) Each discount ~~medical~~ plan organization licensed
658 pursuant to ~~the provisions of~~ this part shall ~~must~~ maintain in
659 force a surety bond in its own name in an amount not less than
660 \$35,000 to be used at the discretion of the office to protect
661 the financial interests of members who may be adversely affected
662 by the insolvency of a discount ~~medical~~ plan organization. The
663 bond must be issued by an insurance company that is licensed to
664 do business in this state.

665 (2) In lieu of the bond specified in subsection (1), a
666 licensed discount ~~medical~~ plan organization may deposit and
667 maintain deposited in trust with the department securities
668 eligible for deposit under s. 625.52 having at all times a value
669 of not less than \$35,000. If a licensed discount ~~medical~~ plan
670 organization substitutes its deposited securities under this
671 subsection with a surety bond authorized in subsection (1), such
672 deposited securities must ~~shall~~ be returned to the discount
673 ~~medical~~ plan organization no later than 45 days following the
674 effective date of the surety bond.

675 (3) A ~~No~~ judgment creditor or other claimant of a discount

676 ~~medical~~ plan organization, other than the office or department,
677 does not ~~shall~~ have the right to levy upon any of the assets or
678 securities held in this state as a deposit under subsections (1)
679 and (2).

680 Section 28. Subsections (2) and (3) of section 636.238,
681 Florida Statutes, are amended to read:

682 636.238 Penalties for violation of this part.—

683 (2) A person who operates as or willfully aids and abets
684 another operating as a discount ~~medical~~ plan organization in
685 violation of s. 636.204(1) commits a felony punishable as
686 provided for in s. 624.401(4) (b), as if the unlicensed discount
687 ~~medical~~ plan organization were an unauthorized insurer, and the
688 fees, dues, charges, or other consideration collected from the
689 members by the unlicensed discount ~~medical~~ plan organization or
690 marketer were insurance premium.

691 (3) A person who collects fees for purported membership in
692 a discount ~~medical~~ plan but purposefully fails to provide the
693 promised benefits commits a theft, punishable as provided in s.
694 812.014.

695 Section 29. Subsection (1) of section 636.240, Florida
696 Statutes, is amended to read:

697 636.240 Injunctions.—

698 (1) In addition to the penalties and other enforcement
699 provisions of this part, the office may seek both temporary and
700 permanent injunctive relief when:

CS/HB 577

2017

701 (a) A discount ~~medical~~ plan is being operated by any
702 person or entity that is not licensed pursuant to this part.

703 (b) Any person, entity, or discount ~~medical~~ plan
704 organization has engaged in any activity prohibited by this part
705 or any rule adopted pursuant to this part.

706 Section 30. Section 636.244, Florida Statutes, is amended
707 to read:

708 636.244 Unlicensed discount ~~medical~~ plan organizations.-
709 Sections ~~The provisions of ss.~~ 626.901-626.912 apply to the
710 activities of an unlicensed discount ~~medical~~ plan organization
711 as if the unlicensed discount ~~medical~~ plan organization were an
712 unauthorized insurer.

713 Section 31. This act shall take effect upon becoming a
714 law.