

1 A bill to be entitled
2 An act relating to insurance administrators; amending
3 s. 626.88, F.S.; redefining the term "administrator"
4 to include a pharmacy benefits manager; amending s.
5 626.8805, F.S.; requiring the Office of Insurance
6 Regulation to conduct quarterly audits, for a certain
7 purpose, of pharmacy benefits managers that hold
8 certificates of authority to act as administrators;
9 amending ss. 626.891 and 626.894, F.S.; adding
10 violations of certain provisions of the Florida
11 Pharmacy Act as grounds for the office's suspension or
12 revocation of an administrator's certificate of
13 authority or imposition of a fine, respectively;
14 prohibiting the office, within a specified timeframe,
15 from penalizing a pharmacy benefits manager for
16 operating as an administrator if the pharmacy benefits
17 manager meets certain conditions; providing a
18 directive to the Division of Law Revision and
19 Information; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (1) of section 626.88, Florida
24 Statutes, is amended to read:

25 626.88 Definitions.—For the purposes of this part, the

26 term:

27 (1) "Administrator" is any person who directly or
 28 indirectly solicits or effects coverage of, collects charges or
 29 premiums from, or adjusts or settles claims on residents of this
 30 state in connection with authorized commercial self-insurance
 31 funds or with insured or self-insured programs which provide
 32 life or health insurance coverage or coverage of any other
 33 expenses described in s. 624.33(1); or any person who, through a
 34 health care risk contract as defined in s. 641.234 with an
 35 insurer or health maintenance organization, provides billing and
 36 collection services to health insurers and health maintenance
 37 organizations on behalf of health care providers; or a pharmacy
 38 benefits manager as defined in s. 465.1862(1). The term does not
 39 include the following persons, other than any of the following
 40 persons:

41 (a) An employer or wholly owned direct or indirect
 42 subsidiary of an employer, on behalf of such employer's
 43 employees or the employees of one or more subsidiary or
 44 affiliated corporations of such employer.

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

46 (c) An insurance company which is either authorized to
 47 transact insurance in this state or is acting as an insurer with
 48 respect to a policy lawfully issued and delivered by such
 49 company in and pursuant to the laws of a state in which the
 50 insurer was authorized to transact an insurance business.

51 (d) A health care services plan, health maintenance
52 organization, professional service plan corporation, or person
53 in the business of providing continuing care, possessing a valid
54 certificate of authority issued by the office, and the sales
55 representatives thereof, if the activities of such entity are
56 limited to the activities permitted under the certificate of
57 authority.

58 (e) An entity that is affiliated with an insurer and that
59 only performs the contractual duties, between the administrator
60 and the insurer, of an administrator for the direct and assumed
61 insurance business of the affiliated insurer. The insurer is
62 responsible for the acts of the administrator and is responsible
63 for providing all of the administrator's books and records to
64 the insurance commissioner, upon a request from the insurance
65 commissioner. For purposes of this paragraph, the term "insurer"
66 means a licensed insurance company, health maintenance
67 organization, prepaid limited health service organization, or
68 prepaid health clinic.

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

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

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

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

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

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

87 (l) A trust exempt from taxation under s. 501(a) of the
88 Internal Revenue Code, a trust satisfying the requirements of
89 ss. 624.438 and 624.439, or any governmental trust as defined in
90 s. 624.33(3), and the trustees and employees acting pursuant to
91 such trust, or a custodian and its agents and employees,
92 including individuals representing the trustees in overseeing
93 the activities of a service company or administrator, acting
94 pursuant to a custodial account which meets the requirements of
95 s. 401(f) of the Internal Revenue Code.

96 (m) A financial institution which is subject to
97 supervision or examination by federal or state authorities or a
98 mortgage lender licensed under chapter 494 who collects and
99 remits premiums to licensed insurance agents or authorized
100 insurers concurrently or in connection with mortgage loan

101 | payments.

102 | (n) A credit card issuing company which advances for and
103 | collects premiums or charges from its credit card holders who
104 | have authorized such collection if such company does not adjust
105 | or settle claims.

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

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

112 | (q) A service company or service agent and its employees,
113 | authorized in accordance with ss. 626.895-626.899, serving only
114 | a single employer plan, multiple-employer welfare arrangements,
115 | or a combination thereof.

116 | (r) Any provider or group practice, as defined in s.
117 | 456.053, providing services under the scope of the license of
118 | the provider or the member of the group practice.

119 | (s) Any hospital providing billing, claims, and collection
120 | services solely on its own and its physicians' behalf and
121 | providing services under the scope of its license.

122 | (t) A corporation not for profit whose membership consists
123 | entirely of local governmental units authorized to enter into
124 | risk management consortiums under s. 112.08.

125 |

126 | A person who provides billing and collection services to health
 127 | insurers and health maintenance organizations on behalf of
 128 | health care providers shall comply with ~~the provisions of~~ ss.
 129 | 627.6131, 641.3155, and 641.51(4).

130 | Section 2. Present subsection (6) of section 626.8805,
 131 | Florida Statutes, is redesignated as subsection (7), and a new
 132 | subsection (6) is added to that section, to read:

133 | 626.8805 Certificate of authority to act as
 134 | administrator.—

135 | (6) The office shall conduct quarterly audits of each
 136 | pharmacy benefits manager who holds a certificate of authority
 137 | to act as an administrator under this part for the purpose of
 138 | determining whether the pharmacy benefits manager violated any
 139 | provision of s. 465.1862 or failed to perform as required under
 140 | those provisions.

141 | Section 3. Subsection (2) of section 626.891, Florida
 142 | Statutes, is amended to read:

143 | 626.891 Grounds for suspension or revocation of
 144 | certificate of authority.—

145 | (2) The office may, in its discretion, suspend or revoke
 146 | the certificate of authority of an administrator if it finds
 147 | that the administrator:

148 | (a) Has violated any lawful rule or order of the
 149 | commission or office, or any provision of this chapter, s.
 150 | 465.1862, or s. 465.1885;

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

156 (c) Has, without just cause, refused to pay proper claims
157 or perform services arising under its contracts or has, without
158 just cause, compelled insured persons to accept less than the
159 amount due them or to employ attorneys or bring suit against the
160 administrator to secure full payment or settlement of such
161 claims;

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

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

169 (f) Has been convicted of, or has entered a plea of guilty
170 or nolo contendere to, a felony relating to the business of
171 insurance or insurance administration in this state or in any
172 other state without regard to whether adjudication was withheld;
173 or

174 (g) Is under suspension or revocation in another state.
175 Section 4. Subsection (3) of section 626.894, Florida

176 Statutes, is amended to read:

177 626.894 Administrative fine in lieu of suspension or
178 revocation.—

179 (3) With respect to any knowing and willful violation of a
180 lawful order or rule of the office or commission, ~~or~~ a provision
181 of this part, s. 465.1862, or s. 465.1885, the office may impose
182 a fine upon the administrator in an amount not to exceed \$5,000
183 for each such violation. In no event may such fine exceed an
184 aggregate amount of \$25,000 for all knowing and willful
185 violations arising out of the same action. In addition to such
186 fine, the administrator shall make restitution when due in
187 accordance with the provisions of subsection (2).

188 Section 5. Within 180 days after the effective date of
189 this act, the Office of Insurance Regulation may not penalize a
190 pharmacy benefits manager, as defined in s. 465.1862(1), Florida
191 Statutes, for operating as an administrator if the pharmacy
192 benefits manager applies for a certificate of authority within
193 90 days after the effective date of this act and is issued such
194 certificate of authority within 180 days after the effective
195 date of this act.

196 Section 6. The Division of Law Revision and Information is
197 directed to replace the phrase "the effective date of this act"
198 wherever it occurs in this act with the date this act becomes a
199 law.

200 Section 7. This act shall take effect upon becoming a law.