

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED                                         (Y/N)  
ADOPTED AS AMENDED                         (Y/N)  
ADOPTED W/O OBJECTION                     (Y/N)  
FAILED TO ADOPT                             (Y/N)  
WITHDRAWN                                    (Y/N)  
OTHER                                          

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1 Committee/Subcommittee hearing bill: Health Innovation  
2 Subcommittee

3 Representative Harrison offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 627.42393 Fail-first protocols.-

10 (1) As used in this section, the term:

11 (a) "Fail-first protocol" means a written policy that  
12 specifies the order in which a certain medical procedure, course  
13 of treatment, or prescription drug must be used to treat an  
14 insured's condition.

Amendment No.

15 (b) "Health insurer" means an authorized insurer offering  
16 health insurance as defined in s. 624.603 or a health  
17 maintenance organization as defined in s. 641.19(12).

18 (c) "Preceding prescription drug or medical treatment"  
19 means a medical procedure, course of treatment, or prescription  
20 drug that must be used to treat an insured's condition pursuant  
21 to a health insurer's fail-first protocol as a condition of  
22 coverage under a health insurance policy or a health maintenance  
23 contract.

24 (d) "Protocol exception" means a determination by a health  
25 insurer that a fail-first protocol is not medically appropriate  
26 or indicated for treatment of an insured's condition and the  
27 health insurer authorizes the use of another medical procedure,  
28 course of treatment, or prescription drug prescribed or  
29 recommended by the treating health care provider.

30 (e) "Urgent care situation" means the standard timeframe  
31 to treat the insured's injury or condition would, based on the  
32 opinion of a treating health care provider:

33 1. Seriously jeopardize the insured's life, health, or  
34 ability to regain maximum function; or

35 2. Subject the insured to pain that cannot be adequately  
36 managed.

37 (2) A health insurer must publish on its website, and  
38 provide to an insured in writing, the procedure for an insured

Amendment No.

39 or health care provider to request a protocol exception. The  
40 procedure must include:

41 (a) A description of the manner in which an insured or  
42 health care provider may request a protocol exception.

43 (b) The manner and timeframe in which the health insurer  
44 is required to authorize or deny a protocol exception request or  
45 respond to an appeal of a health insurer's authorization or  
46 denial of a request.

47 (c) Conditions in which the protocol exception request  
48 must be granted.

49 (3) (a) The health insurer must authorize or deny a  
50 protocol exception request or respond to an appeal of an  
51 authorization or denial of a request within:

52 1. Three business days of obtaining a completed protocol  
53 exception request for a non-urgent care situation.

54 2. Twenty-four hours of obtaining a completed protocol  
55 exception request for an urgent care situation.

56 (b) An authorization of a protocol exception request must  
57 specify the approved medical procedure, course of treatment, or  
58 prescription drug benefits.

59 (c) A denial of a protocol exception request must include  
60 a detailed, written explanation of the reason for the denial,  
61 the clinical rationale that supports the denial, and the  
62 procedure to appeal the determination.

Amendment No.

63       (4) A health insurer must grant a protocol exception  
64 request if:

65       (a) A preceding prescription drug or medical treatment is  
66 contraindicated or likely to cause an adverse reaction or  
67 physical or mental harm to the insured;

68       (b) A preceding prescription drug or medical treatment is  
69 expected to be ineffective, based on the medical history of the  
70 insured and the clinical evidence of the characteristics of the  
71 preceding prescription drug or medical treatment; or

72       (c) The insured has previously received a preceding  
73 prescription drug or medical treatment that is in the same  
74 pharmacologic class or has the same mechanism of action, and  
75 such drug or treatment lacked efficacy or effectiveness or  
76 adversely affected the insured.

77       (5) The health insurer may request a copy of relevant  
78 documentation from the insured's medical record in support of a  
79 protocol exception request.

80       Section 2. This act shall take effect July 1, 2017.

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83                   **T I T L E   A M E N D M E N T**

84       Remove everything before the enacting clause and insert:  
85       An act relating to fail-first protocols; creating s. 627.42393,  
86       F.S.; providing definitions; requiring health insurers to  
87       provide a procedure to obtain protocol exceptions on its website

Amendment No.

88 | and in writing; providing information that must be included in  
89 | the procedure; providing a timeframe in which health insurers  
90 | must make a determination to protocol exception requests;  
91 | providing notification requirements for such determination;  
92 | providing circumstances in which health insurers must grant a  
93 | protocol exception request; authorizing health insurers to  
94 | request for certain medical records; providing an effective date