

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WITHDRAWN	_____	(Y/N)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 Massullo offered the following:

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

6 Remove everything after the enacting clause and insert:

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

9 110.123 State group insurance program.—

10 (3) STATE GROUP INSURANCE PROGRAM.—

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

13 Section 2. Section 627.42393, Florida Statutes, is created  
 14 to read:

15 627.42393 Insurance policies; limiting changes to  
 16 prescription drug formularies.—

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

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

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

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

38       (3) This section does not apply to a grandfathered health  
39 plan as defined in s. 627.402 or to benefits set forth in s.  
40 627.6513(1)-(14).

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

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

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

49 Section 3. Paragraph (e) of subsection (5) of section  
50 627.6699, Florida Statutes, is amended to read:

51 627.6699 Employee Health Care Access Act.—

52 (5) AVAILABILITY OF COVERAGE.—

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

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

60 2. Any requirement used by a small employer carrier in  
61 determining whether to provide coverage to a small employer  
62 group, including requirements for minimum participation of  
63 eligible employees and minimum employer contributions, must be  
64 applied uniformly among all small employer groups having the  
65 same number of eligible employees applying for coverage or  
66 receiving coverage from the small employer carrier, except that

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67 a small employer carrier that participates in, administers, or  
68 issues health benefits pursuant to s. 381.0406 which do not  
69 include a preexisting condition exclusion may require as a  
70 condition of offering such benefits that the employer has had no  
71 health insurance coverage for its employees for a period of at  
72 least 6 months. A small employer carrier may vary application of  
73 minimum participation requirements and minimum employer  
74 contribution requirements only by the size of the small employer  
75 group.

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

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

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

98 6. A small employer carrier may not modify any health  
99 benefit plan issued to a small employer with respect to a small  
100 employer or any eligible employee or dependent through riders,  
101 endorsements, or otherwise to restrict or exclude coverage for  
102 certain diseases or medical conditions otherwise covered by the  
103 health benefit plan.

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

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

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

113 641.31 Health maintenance contracts.—

114 (36) A health maintenance organization may increase the  
115 copayment for any benefit, or delete, amend, or limit any of the  
116 benefits to which a subscriber is entitled under the group

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117 contract only, upon written notice to the contract holder at  
118 least 45 days in advance of the time of coverage renewal. The  
119 health maintenance organization may amend the contract with the  
120 contract holder, with such amendment to be effective immediately  
121 at the time of coverage renewal. The written notice to the  
122 contract holder must ~~shall~~ specifically identify any deletions,  
123 amendments, or limitations to any of the benefits provided in  
124 the group contract during the current contract period which will  
125 be included in the group contract upon renewal. This subsection  
126 does not apply to any increases in benefits. The 45-day notice  
127 requirement does ~~shall~~ not apply if benefits are amended,  
128 deleted, or limited at the request of the contract holder.

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

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

140 2. Reclassify a drug to a more restrictive drug tier or  
141 increase the amount that an insured must pay for a copayment,

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142 coinsurance, or deductible for prescription drug benefits, or  
143 reclassify a drug to a higher cost-sharing tier during the  
144 contract year.

145 (b) This subsection does not:

146 1. Prohibit the addition of prescription drugs to the list  
147 of drugs covered during the contract year.

148 2. Apply to a grandfathered health plan as defined in s.  
149 627.402 or to benefits set forth in s. 627.6513(1)-(14).

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

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

156 Section 5. The Legislature finds that this act fulfills an  
157 important state interest.

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

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

162 Remove everything before the enacting clause and insert:

163 A bill to be entitled

164 An act relating to consumer protection from nonmedical  
165 changes to prescription drug formularies; amending s.  
166 110.123, F.S.; providing that certain provisions

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167 prohibiting nonmedical changes to prescription drug  
168 formularies do not apply to the state group insurance  
169 program; creating s. 627.42393, F.S.; limiting, under  
170 specified circumstances, changes to a health insurance  
171 policy prescription drug formulary during a policy  
172 year; providing construction and applicability;  
173 amending s. 627.6699, F.S.; requiring small employer  
174 carriers to limit changes to prescription drug  
175 formularies under certain circumstances; amending s.  
176 641.31, F.S.; limiting, under specified circumstances,  
177 changes to a health maintenance contract prescription  
178 drug formulary during a contract year; providing  
179 construction and applicability; providing a  
180 declaration of important state interest; providing an  
181 effective date.