

1                                   A bill to be entitled  
 2           An act relating to consumer protection from nonmedical  
 3           changes to prescription drug formularies; creating s.  
 4           627.42393, F.S.; limiting changes to a health  
 5           insurance policy prescription drug formulary during a  
 6           policy year; providing applicability; amending s.  
 7           627.6699, F.S.; requiring small employer carriers to  
 8           provide continuity of care with respect to  
 9           prescription drug coverage; amending s. 641.31, F.S.;  
 10          limiting changes to a health maintenance contract  
 11          prescription drug formulary during a contract year;  
 12          providing applicability; providing an effective date.

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 14   Be It Enacted by the Legislature of the State of Florida:

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 16           Section 1.   Section 627.42393, Florida Statutes, is created  
 17   to read:

18           627.42393 Insurance policies; limiting changes to  
 19   prescription drug formularies.-

20           (1) Other than during an open enrollment period, an  
 21   individual or group insurance policy that is delivered, issued  
 22   for delivery, renewed, amended, or continued in this state that  
 23   provides medical, major medical, or similar comprehensive  
 24   coverage may not:

25           (a) Remove a covered prescription drug from its list of

26 | covered drugs during the policy year unless the United States  
27 | Food and Drug Administration has issued a statement about the  
28 | drug which calls into question the clinical safety of the drug,  
29 | or the manufacturer of the drug has notified the United States  
30 | Food and Drug Administration of a manufacturing discontinuance  
31 | or potential discontinuance of the drug as required by s. 506C  
32 | of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

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

38 | (2) This section does not prohibit the addition of  
39 | prescription drugs to the list of drugs covered under the policy  
40 | during the policy year.

41 | (3) This section does not apply to a grandfathered health  
42 | plan as defined in s. 627.402 or to benefits set forth in s.  
43 | 627.6513(1)-(14).

44 | (4) This section does not alter or amend s. 465.025, which  
45 | provides conditions under which a pharmacist may substitute a  
46 | generically equivalent drug product for a brand name drug  
47 | product.

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

51 product.

52 Section 2. Paragraph (e) of subsection (5) of section  
53 627.6699, Florida Statutes, is amended to read:

54 627.6699 Employee Health Care Access Act.—

55 (5) AVAILABILITY OF COVERAGE.—

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

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

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

76 | minimum participation requirements and minimum employer  
77 | contribution requirements only by the size of the small employer  
78 | group.

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

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

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

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

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

112           8. A small employer carrier must provide continuity of  
113 care for medically stable patients as required by s. 627.42393.

114           Section 3. Subsection (44) is added to section 641.31,  
115 Florida Statutes, to read:

116           641.31 Health maintenance contracts.—

117           (44) (a) Other than during an open enrollment period, a  
118 health maintenance contract that is delivered, issued for  
119 delivery, renewed, amended, or continued in this state that  
120 provides medical, major medical, or similar comprehensive  
121 coverage may not:

122           1. Remove a covered prescription drug from its list of  
123 covered drugs during the contract year unless the United States  
124 Food and Drug Administration has issued a statement about the  
125 drug which calls into question the clinical safety of the drug,

126 or the manufacturer of the drug has notified the United States  
127 Food and Drug Administration of a manufacturing discontinuance  
128 or potential discontinuance of the drug as required by s. 506C  
129 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

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

135 (b) This subsection does not prohibit the addition of  
136 prescription drugs to the list of drugs covered during the  
137 contract year.

138 (c) This subsection does not apply to a grandfathered  
139 health plan as defined in s. 627.402 or to benefits set forth in  
140 s. 627.6513(1)-(14).

141 (d) This subsection does not alter or amend s. 465.025,  
142 which provides conditions under which a pharmacist may  
143 substitute a generically equivalent drug product for a brand  
144 name drug product.

145 (e) This subsection does not alter or amend s. 465.0252,  
146 which provides conditions under which a pharmacist may dispense  
147 a substitute biological product for the prescribed biological  
148 product.

149 Section 4. This act shall take effect January 1, 2018.