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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/F/2R

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04/24/2019 11:42 AM

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Senator Rodriguez moved the following:

1 **Senate Substitute for Amendment (220604) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Effective July 1, 2019, paragraph (b) of
7 subsection (1) of section 624.438, Florida Statutes, is amended
8 to read:

9 624.438 General eligibility.—

10 (1) To meet the requirements for issuance of a certificate
11 of authority and to maintain a multiple-employer welfare



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12 arrangement, an arrangement:

13 (b)~~1.~~ Must be established by a bona fide group ~~trade~~
14 ~~association, industry association, or professional~~ association
15 of employers as defined in 29 C.F.R. s. 2510.3-5 ~~or~~
16 ~~professionals~~ which has a constitution or bylaws specifically
17 stating its purpose and which has been organized ~~and maintained~~
18 ~~in good faith for a continuous period of 1 year~~ for purposes in
19 addition to ~~other than that of~~ obtaining or providing insurance.

20 ~~2. Must not combine member employers from disparate trades,~~
21 ~~industries, or professions as defined by the appropriate~~
22 ~~licensing agencies, and must not combine member employers from~~
23 ~~more than one of the employer categories defined in sub-~~
24 ~~subparagraphs a. c.~~

25 ~~a. A trade association consists of member employers who are~~
26 ~~in the same trade as recognized by the appropriate licensing~~
27 ~~agency.~~

28 ~~b. An industry association consists of member employers who~~
29 ~~are in the same major group code, as defined by the Standard~~
30 ~~Industrial Classification Manual issued by the federal Office of~~
31 ~~Management and Budget, unless restricted by sub-subparagraph a.~~
32 ~~or sub-subparagraph c.~~

33 ~~c. A professional association consists of member employers~~
34 ~~who are of the same profession as recognized by the appropriate~~
35 ~~licensing agency.~~

36
37 The requirements of this paragraph ~~subparagraph~~ do not apply to
38 an arrangement licensed before ~~prior to~~ April 1, 1995,
39 regardless of the nature of its business. However, an
40 arrangement exempt from the requirements of this paragraph



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41 ~~subparagraph~~ may not expand the nature of its business beyond
42 that set forth in the articles of incorporation of its
43 sponsoring association as of April 1, 1995, except as authorized
44 in this paragraph ~~subparagraph~~.

45 Section 2. Section 627.443, Florida Statutes, is created to
46 read:

47 627.443 Essential health benefits.-

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

49 (a) "EHB-benchmark plan" has the same meaning as provided
50 in 45 C.F.R. s. 156.20.

51 (b) "PPACA" has the same meaning as in s. 627.402.

52 (2) A health insurer or health maintenance organization
53 issuing or delivering an individual or a group health insurance
54 policy or health maintenance contract in this state may create a
55 new health insurance policy or health maintenance contract that:

56 (a) Must include at least one service or coverage under
57 each of the 10 essential health benefits categories under 42
58 U.S.C. s. 18022(b) which are required under PPACA;

59 (b) May fulfill the requirement in paragraph (a) by
60 selecting one or more services or coverages for each of the
61 required categories from the list of essential health benefits
62 required by any single state or multiple states; and

63 (c) May comply with paragraphs (a) and (b) by selecting one
64 or more services or coverages from any one or more of the
65 required categories of essential health benefits from one state
66 or multiple states.

67 (3) This section specifically authorizes an insurer or
68 health maintenance organization to include any combination of
69 services or coverages required by any one or a combination of



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70 states to provide the 10 categories of essential health benefits
71 required under PPACA in a policy or contract issued in this
72 state.

73 (4) Health insurance policies and health maintenance
74 contracts created by health insurers and health maintenance
75 organizations under this section:

76 (a) May be submitted to the office for consideration as
77 part of the office's study of this state's essential health
78 benefits benchmark plan; and

79 (b) May also be submitted to the office for evaluation as
80 equivalent to the current state EHB-benchmark plan or to any
81 EHB-benchmark plan created in the future.

82 Section 3. Section 627.6045, Florida Statutes, is repealed.

83 Section 4. Section 627.6046, Florida Statutes, is created
84 to read:

85 627.6046 Preexisting conditions coverage.-

86 (1) As used in this section, the term "preexisting
87 condition" means a condition that was present before the
88 effective date of coverage under an individual health insurance
89 policy, whether or not any medical advice, diagnosis, care, or
90 treatment was recommended or received before the effective date
91 of coverage. The term includes a condition identified as a
92 result of a preenrollment questionnaire or physical examination
93 given to the individual, or review of medical records relating
94 to the preenrollment period.

95 (2) A nongrandfathered individual health insurance policy
96 issued or delivered in this state may not exclude, limit, deny,
97 or delay coverage due to a preexisting condition.

98 Section 5. Effective July 1, 2019, subsection (1) of



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99 section 627.6425, Florida Statutes, is amended to read:

100 627.6425 Renewability of individual coverage.—

101 (1) Except as otherwise provided in this section, an
102 insurer that provides individual health insurance coverage to an
103 individual shall renew or continue in force such coverage at the
104 option of the individual. For the purpose of this section, the
105 term "individual health insurance" means health insurance
106 coverage, as described in s. 624.603, offered to an individual
107 in this state, including certificates of coverage offered to
108 individuals in this state as part of a group policy issued to an
109 association outside this state, but the term does not include
110 ~~short-term limited duration insurance or~~ excepted benefits
111 specified in s. 627.6513(1)-(14).

112 Section 6. Effective July 1, 2019, section 627.6426,
113 Florida Statutes, is created to read:

114 627.6426 Short-term health insurance.—

115 (1) For purposes of this part, the term "short-term health
116 insurance" means health insurance coverage provided by an issuer
117 with an expiration date specified in the contract which is less
118 than 12 months after the original effective date of the contract
119 and, taking into account renewals or extensions, has a duration
120 not to exceed 36 months in total.

121 (2) All contracts for short-term health insurance entered
122 into by an issuer and an individual seeking coverage:

123 (a) Must include the following disclosure:

124
125 "This coverage is not required to comply with certain federal
126 market requirements for health insurance, including some
127 requirements contained in the Patient Protection and Affordable



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128 Care Act. Your policy might also have lifetime and/or annual
129 dollar limits on health benefits. If this coverage expires or
130 you lose eligibility for this coverage, you might have to wait
131 until an open enrollment period to get other health insurance
132 coverage."

133 (b) May not exclude, limit, deny, or delay coverage due to
134 a preexisting condition. As used in this paragraph, the term
135 "preexisting condition" means a condition that was present
136 before the effective date of coverage under a contract, whether
137 or not any medical advice, diagnosis, care, or treatment was
138 recommended or received before the effective date of coverage.
139 The term includes a condition identified as a result of a
140 preenrollment questionnaire or physical examination given to the
141 individual, or review of medical records relating to the
142 preenrollment period.

143 Section 7. Section 627.6525, Florida Statutes, is created
144 to read:

145 627.6525 Short-term health insurance.-

146 (1) For purposes of this part, the term "short-term health
147 insurance" means a group, blanket, or franchise policy of health
148 insurance coverage provided by an issuer with an expiration date
149 specified in the contract which is less than 12 months after the
150 original effective date of the contract and, taking into account
151 renewals or extensions, has a duration not to exceed 36 months
152 in total.

153 (2) All contracts for short-term health insurance entered
154 into by an issuer and a party seeking coverage:

155 (a) Must include the following disclosure:
156



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157 "This coverage is not required to comply with certain federal
158 market requirements for health insurance, including some
159 requirements contained in the Patient Protection and Affordable
160 Care Act. Your policy might also have lifetime and/or annual
161 dollar limits on health benefits. If this coverage expires or
162 you lose eligibility for this coverage, you might have to wait
163 until an open enrollment period to get other health insurance
164 coverage."

165 (b) May not exclude, limit, deny, or delay coverage due to
166 a preexisting condition. As used in this paragraph, the term
167 "preexisting condition" means a condition that was present
168 before the effective date of coverage under a contract, whether
169 or not any medical advice, diagnosis, care, or treatment was
170 recommended or received before the effective date of coverage.
171 The term includes a condition identified as a result of a
172 preenrollment questionnaire or physical examination given to the
173 individual, or review of medical records relating to the
174 preenrollment period.

175 Section 8. Effective July 1, 2019, subsection (1) of
176 section 627.654, Florida Statutes, is amended to read:

177 627.654 Labor union, association, and small employer health
178 alliance groups.—

179 (1) (a) A bona fide group or association of employers, as
180 defined in 29 C.F.R. s. 2510.3-5, or a group of individuals may
181 be insured under a policy issued to an association, including a
182 labor union, which association has a constitution and bylaws ~~and~~
183 ~~not less than 25 individual members~~ and which has been organized
184 ~~and has been maintained in good faith for a period of 1 year for~~
185 purposes in addition to ~~other than that of~~ obtaining insurance,



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186 or to the trustees of a fund established by such an association,
187 which association or trustees shall be deemed the policyholder,
188 insuring at least 15 individual members of the association for
189 the benefit of persons other than the officers of the
190 association, the association, or trustees.

191 (b) A small employer, as defined in s. 627.6699 and
192 including the employer's eligible employees and the spouses and
193 dependents of such employees, may be insured under a policy
194 issued to a small employer health alliance by a carrier as
195 defined in s. 627.6699. ~~A small employer health alliance must be
196 organized as a not-for-profit corporation under chapter 617.
197 Notwithstanding any other law, if a small employer member of an
198 alliance loses eligibility to purchase health care through the
199 alliance solely because the business of the small employer
200 member expands to more than 50 and fewer than 75 eligible
201 employees, the small employer member may, at its next renewal
202 date, purchase coverage through the alliance for not more than 1
203 additional year. A small employer health alliance shall
204 establish conditions of participation in the alliance by a small
205 employer, including, but not limited to:~~

206 ~~1. Assurance that the small employer is not formed for the
207 purpose of securing health benefit coverage.~~

208 ~~2. Assurance that the employees of a small employer have
209 not been added for the purpose of securing health benefit
210 coverage.~~

211 Section 9. Section 627.65612, Florida Statutes, is created
212 to read:

213 627.65612 Preexisting conditions coverage.-

214 (1) As used in this section, the term "preexisting



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215 condition" means a condition that was present before the
216 effective date of coverage under a group health insurance
217 policy, whether or not any medical advice, diagnosis, care, or
218 treatment was recommended or received before the effective date
219 of coverage. The term includes a condition identified as a
220 result of a preenrollment questionnaire or physical examination
221 given to the individual, or review of medical records relating
222 to the preenrollment period.

223 (2) A group health insurance policy issued or delivered in
224 this state may not exclude, limit, deny, or delay coverage due
225 to a preexisting condition.

226 Section 10. Subsection (45) is added to section 641.31,
227 Florida Statutes, to read:

228 641.31 Health maintenance contracts.—

229 (45) (a) As used in this subsection, the term "preexisting
230 condition" means a condition that was present before the
231 effective date of coverage under a health maintenance contract,
232 whether or not any medical advice, diagnosis, care, or treatment
233 was recommended or received before the effective date of
234 coverage. The term includes a condition identified as a result
235 of a preenrollment questionnaire or physical examination given
236 to the individual, or review of medical records relating to the
237 preenrollment period.

238 (b) A health maintenance contract issued or delivered in
239 this state may not exclude, limit, deny, or delay coverage due
240 to a preexisting condition.

241 Section 11. Study of state essential health benefits
242 benchmark plan; report.—

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



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244 (a) "EHB-benchmark plan" has the same meaning as provided
245 in 45 C.F.R. s. 156.20.

246 (b) "Office" means the Office of Insurance Regulation.

247 (2) The office shall conduct a study to evaluate this
248 state's current EHB-benchmark plan for nongrandfathered
249 individual and group health plans and options for changing the
250 EHB-benchmark plan pursuant to 45 C.F.R. s. 156.111 for future
251 plan years. In conducting the study, the office shall:

252 (a) Consider EHB-benchmark plans and benefits under the 10
253 essential health benefits categories established under 45 C.F.R.
254 s. 156.110(a) which are used by the other 49 states;

255 (b) Compare the costs of benefits within such categories
256 and overall costs of EHB-benchmark plans used by other states
257 with the costs of benefits within the categories and overall
258 costs of the current EHB-benchmark plan of this state; and

259 (c) Solicit and consider proposed individual and group
260 health plans from health insurers and health maintenance
261 organizations in developing recommendations for changes to the
262 current EHB-benchmark plan.

263 (3) By October 30, 2019, the office shall submit a report
264 to the Governor, the President of the Senate, and the Speaker of
265 the House of Representatives which must include recommendations
266 for changing the current EHB-benchmark plan to provide
267 comprehensive care at a lower cost than this state's current
268 EHB-benchmark plan. In its report, the office shall provide an
269 analysis as to whether proposed health plans it receives under
270 paragraph (2)(c) meet the requirements for an EHB-benchmark plan
271 under 45 C.F.R. s. 156.111(b).

272 Section 12. If any provision of this act or its application



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273 to any person or circumstance is held invalid, the invalidity
274 does not affect other provisions or applications of the act
275 which can be given effect without the invalid provision or
276 application, and to this end the provisions of this act are
277 severable.

278 Section 13. Except as otherwise expressly provided in this
279 act, this act shall take effect upon becoming a law.

280

281 ===== T I T L E A M E N D M E N T =====

282 And the title is amended as follows:

283 Delete everything before the enacting clause
284 and insert:

285 A bill to be entitled
286 An act relating to health plans; amending s. 624.438,
287 F.S.; revising eligibility requirements for multiple-
288 employer welfare arrangements; creating s. 627.443,
289 F.S.; defining the terms "EHB-benchmark plan" and
290 "PPACA"; authorizing health insurers and health
291 maintenance organizations to create new health
292 insurance policies and health maintenance contracts
293 meeting certain criteria for essential health benefits
294 under the federal Patient Protection and Affordable
295 Care Act (PPACA); providing that such criteria may be
296 met by certain means; providing construction;
297 providing that such policies and contracts created by
298 health insurers and health maintenance organizations
299 may be submitted to the Office of Insurance Regulation
300 for certain purposes; repealing s. 627.6045, F.S.,
301 relating to preexisting conditions; creating s.



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302 627.6046, F.S.; defining the term "preexisting
303 condition"; prohibiting nongrandfathered individual
304 health insurance policies, from excluding, limiting,
305 denying, or delaying coverage due to preexisting
306 conditions; amending s. 627.6425, F.S.; revising the
307 definition of the term "individual health insurance"
308 relating to renewability of individual coverage;
309 creating ss. 627.6426 and 627.6525, F.S.; defining the
310 term "short-term health insurance"; providing
311 disclosure requirements for short-term individual,
312 group, blanket, and franchise health insurance
313 policies; prohibiting such contracts from excluding,
314 limiting, denying, or delaying coverage due to
315 preexisting conditions; amending s. 627.654, F.S.;
316 revising requirements for, and applicability relating
317 to, association and small employer policies; creating
318 s. 627.65612, F.S.; defining the term "preexisting
319 condition"; prohibiting group health insurance
320 policies from excluding, limiting, denying, or
321 delaying coverage due to preexisting conditions;
322 amending s. 641.31, F.S.; defining the term
323 "preexisting condition"; prohibiting health
324 maintenance contracts from excluding, limiting,
325 denying, or delaying coverage due to preexisting
326 conditions; defining the terms "EHB-benchmark plan"
327 and "office"; requiring the office to conduct a study
328 evaluating this state's current benchmark plan for
329 essential health benefits under PPACA and options for
330 changing the benchmark plan for future plan years;



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331 requiring the office, in conducting the study, to
332 consider plans and certain benefits used by other
333 states and to compare costs with those of this state;
334 requiring the office to solicit and consider proposed
335 health plans from health insurers and health
336 maintenance organizations in developing
337 recommendations; requiring the office, by a certain
338 date, to provide a report with certain recommendations
339 and a certain analysis to the Governor and the
340 Legislature; providing for severability; providing
341 effective dates.