

1 A bill to be entitled
2 An act relating to health plans; amending s. 624.438,
3 F.S.; revising eligibility requirements for multiple-
4 employer welfare arrangements; creating s. 627.443,
5 F.S.; providing definitions; specifying conditions
6 under which health insurers and health maintenance
7 organizations may comply with requirements under the
8 federal Patient Protection and Affordable Care Act to
9 provide essential health benefits; amending s.
10 627.6045, F.S.; revising applicability; revising font
11 size for disclosure; creating ss. 627.6046 and
12 627.65612, F.S.; defining the terms "operative date"
13 and "preexisting medical condition" with respect to
14 individual and group health insurance policies,
15 respectively; requiring insurers, contingent upon the
16 occurrence of either of two specified events, to make
17 at least one comprehensive major medical health
18 insurance policy available to certain individuals
19 within a specified timeframe; prohibiting such
20 insurers from excluding, limiting, denying, or
21 delaying coverage under such policies due to
22 preexisting medical conditions; requiring such
23 policies to have been actively marketed on a specified
24 date and during a certain timeframe before that date;
25 providing applicability; creating ss. 627.6426 and

26 | 627.6525, F.S.; defining the term "short-term health
27 | insurance"; providing disclosure requirements for
28 | short-term health insurance policies; amending s.
29 | 627.654, F.S.; revising requirements for association
30 | and small employer policies; providing construction;
31 | amending s. 641.31, F.S.; defining the terms
32 | "operative date" and "preexisting medical condition"
33 | with respect to health maintenance contracts;
34 | requiring health maintenance organizations, contingent
35 | upon the occurrence of either of two specified events,
36 | to make at least one comprehensive major medical
37 | health maintenance contract available to certain
38 | individuals within a specified timeframe; prohibiting
39 | such health maintenance organizations from excluding,
40 | limiting, denying, or delaying coverage under such
41 | contracts due to preexisting medical conditions;
42 | requiring such contracts to have been actively
43 | marketed on a specified date and during a certain
44 | timeframe before that date; requiring the Office of
45 | Insurance Regulation to conduct a study evaluating the
46 | current state essential health benefits benchmark plan
47 | under the federal Patient Protection and Affordable
48 | Care Act; providing an effective date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Paragraph (b) of subsection (1) of section
53 624.438, Florida Statutes, is amended to read:

54 624.438 General eligibility.—

55 (1) To meet the requirements for issuance of a certificate
56 of authority and to maintain a multiple-employer welfare
57 arrangement, an arrangement:

58 (b)~~1.~~ Must be established by a trade association, industry
59 association, ~~or~~ professional association of employers or
60 professionals, or a bona fide group as defined in 29 C.F.R. part
61 2510.3-5 which has a constitution or bylaws specifically stating
62 its purpose and which has been organized ~~and maintained in good~~
63 ~~faith for a continuous period of 1 year~~ for purposes in addition
64 to other than that of obtaining or providing insurance.

65 ~~2. Must not combine member employers from disparate~~
66 ~~trades, industries, or professions as defined by the appropriate~~
67 ~~licensing agencies, and must not combine member employers from~~
68 ~~more than one of the employer categories defined in sub-~~
69 ~~subparagraphs a.-c.~~

70 1.a. A trade association consists of member employers who
71 are in the same trade as recognized by the appropriate licensing
72 agency.

73 2.b. An industry association consists of member employers
74 who are in the same major group code, as defined by the Standard
75 Industrial Classification Manual issued by the federal Office of

76 Management and Budget, unless restricted by subparagraph 1. ~~sub-~~
 77 ~~subparagraph a.~~ or subparagraph 3 ~~sub-subparagraph e.~~

78 ~~3.e.~~ A professional association consists of member
 79 employers who are of the same profession as recognized by the
 80 appropriate licensing agency.

81
 82 The requirements of this paragraph ~~subparagraph~~ do not apply to
 83 an arrangement licensed before ~~prior to~~ April 1, 1995,
 84 regardless of the nature of its business. However, an
 85 arrangement exempt from the requirements of this paragraph
 86 ~~subparagraph~~ may not expand the nature of its business beyond
 87 that set forth in the articles of incorporation of its
 88 sponsoring association as of April 1, 1995, except as authorized
 89 in this paragraph ~~subparagraph~~.

90 Section 2. Section 627.443, Florida Statutes, is created
 91 to read:

92 627.443 Essential health benefits.-

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

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

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

97 (2) A health insurer or health maintenance organization
 98 issuing or delivering an individual or a group health insurance
 99 policy or health maintenance contract in this state may create a
 100 new health insurance policy or health maintenance contract that:

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

104 (b) May fulfill the requirement in paragraph (a) by
105 selecting one or more services or coverages for each of the
106 required categories from the list of essential health benefits
107 required by any single state or multiple states.

108 (c) May comply with paragraphs (a) and (b) by selecting
109 one or more services or coverages from any one or more of the
110 required categories of essential health benefits from one state
111 or multiple states.

112 (3) This section specifically authorizes an insurer or
113 health maintenance organization to include any combination of
114 services or coverages required by any one or a combination of
115 states to provide the 10 categories of essential health benefits
116 required under PPACA in a policy or contract issued in this
117 state.

118 (4) Health insurance policies and health maintenance
119 contracts created by health insurers and health maintenance
120 organizations under this section:

121 (a) May be submitted to the office for consideration as
122 part of the office's study of this state's essential health
123 benefits benchmark plan.

124 (b) May be submitted to the office for evaluation as
125 equivalent to the current state EHB-benchmark plan or to any

126 EHB-benchmark plan created in the future.

127 Section 3. Subsection (3) of section 627.6045, Florida
 128 Statutes, is amended to read:

129 627.6045 Preexisting condition.—A health insurance policy
 130 must comply with the following:

131 (3) This section does not apply to short-term~~7~~
 132 ~~nonrenewable~~ health insurance ~~policies of no more than a 6-month~~
 133 ~~policy term~~, provided that it is clearly disclosed to the
 134 applicant in the advertising and application, in 14-point ~~10-~~
 135 ~~point~~ contrasting type, that "This policy does not meet the
 136 definition of qualifying previous coverage or qualifying
 137 existing coverage as defined in s. 627.6699. As a result, if
 138 purchased in lieu of a conversion policy or other group
 139 coverage, you may have to meet a preexisting condition
 140 requirement when renewing or purchasing other coverage."

141 Section 4. Section 627.6046, Florida Statutes, is created
 142 to read:

143 627.6046 Limit on preexisting conditions.—

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

145 (a) "Operative date" means the date on which either of the
 146 following occurs with respect to the Patient Protection and
 147 Affordable Care Act, Pub. L. No. 111-148, as amended by the
 148 Health Care and Education Reconciliation Act of 2010, Pub. L.
 149 No. 111-152 (PPACA):

150 1. A federal law is enacted which expressly repeals PPACA;

151 or

152 2. PPACA is invalidated by the United States Supreme
153 Court.

154 (b) "Preexisting medical condition" means a condition that
155 was present before the effective date of coverage under a
156 policy, whether or not any medical advice, diagnosis, care, or
157 treatment was recommended or received before the effective date
158 of coverage. The term includes a condition identified as a
159 result of a preenrollment questionnaire or physical examination
160 given to the individual, or review of medical records relating
161 to the preenrollment period.

162 (2) (a) Not later than 30 days after the operative date,
163 and notwithstanding s. 627.6045 or any other law to the
164 contrary, every insurer issuing, delivering, or issuing for
165 delivery individual health insurance policies in this state
166 shall make at least one comprehensive major medical health
167 insurance policy available to residents in the insurer's
168 approved service areas of this state, and such insurer may not
169 exclude, limit, deny, or delay coverage under such policy due to
170 one or more preexisting medical conditions.

171 (b) An insurer may not limit or exclude benefits under
172 such policy, including a denial of coverage applicable to an
173 individual as a result of information relating to an
174 individual's health status before the individual's effective
175 date of coverage, or if coverage is denied, the date of the

176 denial.

177 (3) The comprehensive major medical health insurance
178 policy that the insurer is required to offer under this section
179 must be a policy that had been actively marketed in this state
180 by the insurer as of the operative date and that was also
181 actively marketed in this state during the year immediately
182 preceding the operative date.

183 (4) This section does not apply to an insurer that issues
184 only limited benefit, disability income, short-term health
185 insurance, specified disease, Medicare supplement, or hospital
186 indemnity policies in this state.

187 Section 5. Section 627.6426, Florida Statutes, is created
188 to read:

189 627.6426 Short-term health insurance.—

190 (1) For purposes of this part, the term "short-term health
191 insurance" means health insurance coverage provided by an issuer
192 with an expiration date specified in the contract that is less
193 than 12 months after the original effective date of the contract
194 and, taking into account renewals or extensions, has a duration
195 not to exceed 36 months in total.

196 (2) All contracts for short-term health insurance entered
197 into by an issuer and an individual seeking coverage shall
198 include the following disclosure:

199

200 "This coverage is not required to comply with certain federal

201 market requirements for health insurance, principally those
202 contained in the Patient Protection and Affordable Care Act. Be
203 sure to check your policy carefully to make sure you are aware
204 of any exclusions or limitations regarding coverage of
205 preexisting conditions or health benefits (such as
206 hospitalization, emergency services, maternity care, preventive
207 care, prescription drugs, and mental health and substance use
208 disorder services). Your policy might also have lifetime and/or
209 annual dollar limits on health benefits. If this coverage
210 expires or you lose eligibility for this coverage, you might
211 have to wait until an open enrollment period to get other health
212 insurance coverage."

213 Section 6. Section 627.6525, Florida Statutes, is created
214 to read:

215 627.6525 Short-term health insurance.-

216 (1) For purposes of this part, the term "short-term health
217 insurance" means a group, blanket, or franchise policy of health
218 insurance coverage provided by an issuer with an expiration date
219 specified in the contract that is less than 12 months after the
220 original effective date of the contract and, taking into account
221 renewals or extensions, has a duration not to exceed 36 months
222 in total.

223 (2) All contracts for short-term health insurance entered
224 into by an issuer and a party seeking coverage shall include the
225 following disclosure:

226
227 "This coverage is not required to comply with certain federal
228 market requirements for health insurance, principally those
229 contained in the Patient Protection and Affordable Care Act. Be
230 sure to check your policy carefully to make sure you are aware
231 of any exclusions or limitations regarding coverage of
232 preexisting conditions or health benefits (such as
233 hospitalization, emergency services, maternity care, preventive
234 care, prescription drugs, and mental health and substance use
235 disorder services). Your policy might also have lifetime and/or
236 annual dollar limits on health benefits. If this coverage
237 expires or you lose eligibility for this coverage, you might
238 have to wait until an open enrollment period to get other health
239 insurance coverage."

240 Section 7. Subsection (1) of section 627.654, Florida
241 Statutes, is amended to read:

242 627.654 Labor union, association, and small employer
243 health alliance groups.—

244 (1) (a) A bona fide group or association of employers, as
245 defined in 29 C.F.R. part 2510.3-5, or a group of individuals
246 may be insured under a policy issued to an association,
247 including a labor union, which association has a constitution
248 and bylaws ~~and not less than 25 individual members~~ and which has
249 been organized ~~and has been maintained in good faith for a~~
250 period of 1 year for purposes in addition to ~~other than~~ that of

251 obtaining insurance, or to the trustees of a fund established by
252 such an association, which association or trustees shall be
253 deemed the policyholder, insuring at least 15 individual members
254 of the association for the benefit of persons other than the
255 officers of the association, the association, or trustees.

256 (b) A small employer, as defined in s. 627.6699 and
257 including the employer's eligible employees and the spouses and
258 dependents of such employees, may be insured under a policy
259 issued to a small employer health alliance by a carrier as
260 defined in s. 627.6699. ~~A small employer health alliance must be
261 organized as a not-for-profit corporation under chapter 617.
262 Notwithstanding any other law, if a small employer member of an
263 alliance loses eligibility to purchase health care through the
264 alliance solely because the business of the small employer
265 member expands to more than 50 and fewer than 75 eligible
266 employees, the small employer member may, at its next renewal
267 date, purchase coverage through the alliance for not more than 1
268 additional year. A small employer health alliance shall
269 establish conditions of participation in the alliance by a small
270 employer, including, but not limited to:~~

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

273 ~~2. Assurance that the employees of a small employer have
274 not been added for the purpose of securing health benefit
275 coverage.~~

276 Section 8. Section 627.65612, Florida Statutes, is created
277 to read:

278 627.65612 Limit on preexisting conditions.-

279 (1) As used in this section, the terms "operative date"
280 and "preexisting medical condition" have the same meanings as
281 provided in s. 627.6046.

282 (2)(a) Not later than 30 days after the operative date,
283 and notwithstanding s. 627.6561 or any other law to the
284 contrary, every insurer issuing, delivering, or issuing for
285 delivery group health insurance policies in this state shall
286 make at least one comprehensive major medical health insurance
287 policy available to residents in the insurer's approved service
288 areas of this state, and such insurer may not exclude, limit,
289 deny, or delay coverage under such policy due to one or more
290 preexisting medical conditions.

291 (b) An insurer may not limit or exclude benefits under
292 such policy, including a denial of coverage applicable to an
293 individual as a result of information relating to an
294 individual's health status before the individual's effective
295 date of coverage, or if coverage is denied, the date of the
296 denial.

297 (3) The comprehensive major medical health insurance
298 policy that the insurer is required to offer under this section
299 must be a policy that had been actively marketed in this state
300 by the insurer as of the operative date and that was also

301 actively marketed in this state during the year immediately
302 preceding the operative date.

303 (4) This section does not apply to an insurer issuing only
304 limited benefit, disability income, short-term health insurance,
305 specified disease, Medicare supplement, or hospital indemnity
306 policies in this state.

307 Section 9. Subsection (45) is added to section 641.31,
308 Florida Statutes, to read:

309 641.31 Health maintenance contracts.—

310 (45) (a) As used in this subsection, the terms "operative
311 date" and "preexisting medical condition" have the same meanings
312 as provided in s. 627.6046.

313 (b) Not later than 30 days after the operative date, and
314 notwithstanding s. 641.31071 or any other law to the contrary,
315 every health maintenance organization issuing, delivering, or
316 issuing for delivery individual or group contracts in this state
317 shall make at least one comprehensive major medical health
318 maintenance contract available to residents in the
319 organization's approved service areas of this state, and such
320 health maintenance organization may not exclude, limit, deny, or
321 delay coverage under such contract due to one or more
322 preexisting medical conditions. A health maintenance
323 organization may not limit or exclude benefits under such
324 contract, including a denial of coverage applicable to an
325 individual as a result of information relating to an

326 individual's health status before the individual's effective
327 date of coverage, or if coverage is denied, the date of the
328 denial.

329 (c) The comprehensive major medical health maintenance
330 contract the health maintenance organization is required to
331 offer under this section must be a contract that had been
332 actively marketed in this state by the health maintenance
333 organization as of the operative date and that was also actively
334 marketed in this state during the year immediately preceding the
335 operative date.

336 Section 10. Study of state essential health benefits
337 benchmark plan; report.—

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

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

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

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

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

350 (b) Compare the costs of benefits within such categories

351 and overall costs of EHB-benchmark plans used by other states
352 with the costs of benefits within the categories and overall
353 costs of the current EHB-benchmark plan of this state; and

354 (c) Solicit and consider proposed individual and group
355 health plans from health insurers and health maintenance
356 organizations in developing recommendations for changes to the
357 current EHB-benchmark plan.

358 (3) By October 30, 2019, the office shall submit a report
359 to the Governor, the President of the Senate, and the Speaker of
360 the House of Representatives which must include recommendations
361 for changing the current EHB-benchmark plan to provide
362 comprehensive care at a lower cost than this state's current
363 EHB-benchmark plan. In its report, the office shall provide an
364 analysis as to whether proposed health plans it receives under
365 paragraph (2)(c) meet the requirements for an EHB-benchmark plan
366 under 45 C.F.R. s. 156.111(b).

367 (4) Health plans created by health insurers and health
368 maintenance organizations under this section:

369 (a) May be submitted to the office for consideration as
370 part of the study under this section; and

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

374 Section 11. This act shall take effect upon becoming a
375 law.