

1 A bill to be entitled
 2 An act relating to group health plans; amending s.
 3 624.438, F.S.; making technical changes; revising the
 4 definition of and providing requirements for bona fide
 5 groups for purposes of issuance of certificates of
 6 authority and multiple-employer welfare arrangements;
 7 providing an effective date.

8

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

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11 Section 1. Paragraph (b) of subsection (1) of section
 12 624.438, Florida Statutes, is amended to read:

13 624.438 General eligibility.—

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

17 (b) Must be established by a trade association, industry
 18 association, professional association of employers or
 19 professionals, or a bona fide group that ~~as defined in 29 C.F.R.~~
 20 ~~part 2510.3-5 which~~ has a constitution or bylaws specifically
 21 stating its purpose and that ~~which~~ has been organized for
 22 purposes in addition to obtaining or providing insurance.

23 1. A trade association consists of employer members ~~member~~
 24 ~~employers~~ who are in the same trade as recognized by the
 25 appropriate licensing agency.

26 2. An industry association consists of employer members
27 ~~member employers~~ who are in the same major group code, as
28 defined by the Standard Industrial Classification Manual issued
29 by the federal Office of Management and Budget, unless
30 restricted by subparagraph 1. or subparagraph 3.

31 3. A professional association consists of employer members
32 ~~member employers~~ who are of the same profession as recognized by
33 the appropriate licensing agency.

34 4. A bona fide group is a group or association of
35 employers which meets the following requirements:

36 a. The primary purpose of the group or association may be
37 to offer and provide health coverage to its employer members and
38 their employees, but the group or association has at least one
39 substantial business purpose that is unrelated to offering and
40 providing health coverage or other employee benefits to its
41 employer members and their employees. For purposes of this
42 subparagraph, as a safe harbor, a substantial business purpose
43 is considered to exist if the group or association would be a
44 viable entity in the absence of sponsoring an employee benefit
45 plan. The business purpose includes promoting common business
46 interests of its members or the common economic interests in a
47 given trade or employer community, and is not required to be a
48 for-profit activity.

49 b. Each employer member of the group or association
50 participating in the group health plan is a person acting

51 directly as an employer of at least one employee who is a
52 participant covered under the plan.

53 c. The group or association has a formal organizational
54 structure with a governing body.

55 d. The functions and activities of the group or
56 association are controlled by its employer members, and the
57 group's or association's employer members that participate in
58 the group health plan control the plan. Control must be present
59 both in form and in substance.

60 e. The employer members have a principal place of business
61 in the same region that does not exceed the boundaries of a
62 single state or a metropolitan area, even if the metropolitan
63 area includes more than one state.

64 f. The group or association does not make health coverage
65 through the group's or association's group health plan available
66 to any person other than:

67 (I) An employee of a current employer member of the group
68 or association;

69 (II) A former employee of a current employer member of the
70 group or association who became eligible for coverage under the
71 group health plan when the former employee was an employee of
72 the employer; or

73 (III) A beneficiary, such as a spouse or dependent child,
74 of an individual described in sub-sub-subparagraph (I) or sub-
75 sub-subparagraph (II).

76 g. The group or association and the health coverage
77 offered by the group or association comply with the
78 nondiscrimination provisions of s. 627.6699.

79 h. The group or association is not a health insurance
80 issuer, as defined in s. 733(b)(2) of the Employee Retirement
81 Income Security Act of 1974, or owned or controlled by such
82 health insurance issuer or by a subsidiary or affiliate of such
83 health insurance issuer, other than to the extent such entities
84 participate in the group or association in their capacity as
85 employer members of the group or association.

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87 The requirements of this paragraph do not apply to an
88 arrangement licensed before April 1, 1995, regardless of the
89 nature of its business. However, an arrangement exempt from the
90 requirements of this paragraph may not expand the nature of its
91 business beyond that set forth in the articles of incorporation
92 of its sponsoring association as of April 1, 1995, except as
93 authorized in this paragraph.

94 Section 2. This act shall take effect upon becoming a law.