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CS/CS/HB 897

2023 Legislature

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 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 amending s. 624.441, F.S.; making a technical change;
 8 amending s. 627.654, F.S.; conforming a provision to
 9 changes made by the act; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (b) of subsection (1) of section
 14 624.438, Florida Statutes, is amended to read:

15 624.438 General eligibility.—

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

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

25 1. A trade association consists of employer members ~~member~~

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26 ~~employers~~ who are in the same trade as recognized by the
 27 appropriate licensing agency.

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

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

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

38 a. The primary purpose of the group or association may be
 39 to offer and provide health coverage to its employer members and
 40 their employees. However, the group or association must also
 41 have at least one substantial business purpose unrelated to such
 42 primary purpose. For purposes of this sub-subparagraph, a
 43 substantial business purpose is deemed to exist if the group or
 44 association would be a viable entity in the absence of
 45 sponsoring an employee benefit plan. A substantial business
 46 purpose includes promoting common business interests in a given
 47 trade or employer community and is not required to be a for-
 48 profit activity.

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

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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 and has bylaws or other similar
 55 indications of formality.

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

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

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

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

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

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

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76 sub-subparagraph (II).

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

80 h. The group or association is not a health insurance
 81 issuer as defined in s. 733(b)(2) of the Employee Retirement
 82 Income Security Act of 1974, 29 U.S.C. s. 1191b(b)(2), or owned
 83 or controlled by such a health insurance issuer or by a
 84 subsidiary or affiliate of such a health insurance issuer, other
 85 than to the extent such entities participate in the group or
 86 association in their capacity as employer members of the group
 87 or association.

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

96 Section 2. Subsection (1) of section 624.441, Florida
 97 Statutes, is amended to read:

98 624.441 Insolvency protection.—

99 (1) To assure the faithful performance of its obligations
 100 to its employer members ~~member-employers~~ and covered employees

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101 and their dependents, every arrangement shall deposit with the
 102 department cash, securities of the type eligible for deposit by
 103 insurers under s. 625.52, or any combination of these, in an
 104 amount equal to 25 percent of the preceding 12 months' health
 105 care claims expenditures or 5 percent of gross annual premiums
 106 for the succeeding year, whichever is greater, which deposit
 107 shall be made within 30 days after the close of each fiscal
 108 year; however, in no case shall the amount of the deposit exceed
 109 \$500,000.

110 Section 3. Paragraph (a) of subsection (1) of section
 111 627.654, Florida Statutes, is amended to read:

112 627.654 Labor union, association, and small employer health
 113 alliance groups.—

114 (1)(a) A bona fide group as defined in s. 624.438(1)(b)4.,
 115 an ~~or~~ association of employers, ~~as defined in 29 C.F.R. part~~
 116 ~~2510.3-5,~~ or a group of individuals may be insured under a
 117 policy issued to an association, including a labor union, which
 118 association has a constitution and bylaws and which has been
 119 organized for purposes in addition to that of obtaining
 120 insurance, or to the trustees of a fund established by such an
 121 association, which association or trustees shall be deemed the
 122 policyholder, insuring at least 15 individual members of the
 123 association for the benefit of persons other than the officers
 124 of the association, the association, or trustees.

125 Section 4. This act shall take effect upon becoming a law.