

By the Committee on Health Care Services and  
Representatives Patterson and Byrd

1                                   A bill to be entitled  
2           An act relating to health insurance; amending  
3           s. 627.410, F.S.; modifying rate filing  
4           requirements for approval of health insurance  
5           policy forms by the Department of Insurance;  
6           amending s. 627.411, F.S.; providing guidelines  
7           for determining when benefits are considered  
8           reasonable in relation to the premium charged  
9           for purposes of disapproval of health insurance  
10          policy forms by the department; providing an  
11          effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Subsections (1), (3), (6), (7), and (8) of  
16 section 627.410, Florida Statutes, are amended to read:

17           627.410 Filing, approval of forms.--

18           (1) No basic insurance policy or annuity contract  
19 form, or application form where written application is  
20 required and is to be made a part of the policy or contract,  
21 or group certificates issued under a master contract delivered  
22 in this state, or printed rider or endorsement form or form of  
23 renewal certificate, shall be delivered or issued for delivery  
24 in this state, unless the form has been filed with the  
25 department at its offices in Tallahassee by or in behalf of  
26 the insurer which proposes to use such form and has been  
27 approved by the department. This provision does not apply to  
28 ~~surety bonds or to~~ policies, riders, endorsements, or forms of  
29 unique character which are designed for and used with relation  
30 to insurance upon a particular subject (other than as to  
31 individual or small group health insurance), or which relate

1 to the manner of distribution of benefits or to the  
2 reservation of rights and benefits under life or health  
3 insurance policies and are used at the request of the  
4 individual policyholder, contract holder, or  
5 certificateholder. As to group insurance policies effectuated  
6 and delivered outside this state but covering persons resident  
7 in this state, the group certificates to be delivered or  
8 issued for delivery in this state shall be filed with the  
9 department for information purposes only.

10 (3) The department may, as specified in s. 627.411(1)  
11 ~~for cause~~, withdraw a previous approval. No insurer shall  
12 issue or use any form disapproved by the department, or as to  
13 which the department has withdrawn approval, after the  
14 effective date of the order of the department.

15 (6)(a) An insurer shall not deliver or issue for  
16 delivery or renew in this state any health insurance policy  
17 form until it has filed with the department a copy of every  
18 applicable rating manual, rating schedule, change in rating  
19 manual, and change in rating schedule; if rating manuals and  
20 rating schedules are not applicable, the insurer must file  
21 with the department applicable premium rates and any change in  
22 applicable premium rates. This provision does not apply to  
23 rating manuals, rating schedules, changes in rating manuals or  
24 schedules, or if rating manuals or schedules are not  
25 applicable, to premium rates or changes in such rates,  
26 relating to policies, riders, endorsements, or forms of unique  
27 character which are designed for and used with relation to  
28 insurance upon a particular subject or to benefits under group  
29 health insurance policies insuring 51 or more persons and are  
30 used at the request of the individual policyholder, contract  
31 holder, or certificateholder.

1           (b) The department may establish by rule, for each  
2 type of health insurance form, procedures to be used in  
3 ascertaining that a form meets the standards in s. 627.411(2)  
4 for new rate filings and rate revisions in accordance with  
5 generally accepted standards of actuarial practice ~~the~~  
6 ~~reasonableness of benefits in relation to premium rates~~ and  
7 may, by rule, exempt from any requirement of paragraph (a) any  
8 health insurance policy form or type thereof (as specified in  
9 such rule) to which form or type such requirements may not be  
10 practically applied or to which form or type the application  
11 of such requirements is not desirable or necessary for the  
12 protection of the public. With respect to any health insurance  
13 policy form or type thereof which is exempted by rule from any  
14 requirement of paragraph (a), premium rates filed pursuant to  
15 ss. 627.640 and 627.662 shall be for informational purposes.

16           (c) Every filing made pursuant to this subsection  
17 shall be made within the same time period provided in, and  
18 shall be deemed to be approved under the same conditions as  
19 those provided in, subsection (2).

20           (d) Every filing made pursuant to this subsection,  
21 except disability income policies and accidental death  
22 policies, shall be prohibited from applying the following  
23 rating practices:

- 24           1. Select and ultimate premium schedules.
- 25           2. Premium class definitions which classify insured  
26 based on year of issue or duration since issue.
- 27           3. Attained age premium structures on policy forms  
28 under which more than 50 percent of the policies are issued to  
29 persons age 65 or over.

30           (e) ~~Except as provided in subparagraph 1., an insurer~~  
31 ~~shall continue to make available for purchase any individual~~

1 ~~policy form issued on or after October 1, 1993. A policy form~~  
2 ~~shall not be considered to be available for purchase unless~~  
3 ~~the insurer has actively offered it for sale in the previous~~  
4 ~~12 months.~~

5         1. An insurer may discontinue the availability of an  
6 individual a policy form if the insurer provides to the  
7 department in writing its decision at least 30 days prior to  
8 discontinuing the availability of the form of the policy or  
9 certificate. After receipt of the notice by the department,  
10 the insurer shall no longer offer for sale the policy form or  
11 certificate form in this state.

12         ~~2. An insurer that discontinues the availability of a~~  
13 ~~policy form pursuant to subparagraph 1. shall not file for~~  
14 ~~approval a new policy form providing similar benefits as the~~  
15 ~~discontinued form for a period of 5 years after the insurer~~  
16 ~~provides notice to the department of the discontinuance. The~~  
17 ~~period of discontinuance may be reduced if the department~~  
18 ~~determines that a shorter period is appropriate.~~

19         ~~2.3.~~ The experience of an individual accident and  
20 health insurance ~~all~~ policy form that is no longer being  
21 marketed in this state, except for policies rated pursuant to  
22 a loss ratio guarantee under subsection (8), shall be combined  
23 with the experience of at least one other individual accident  
24 and health insurance policy form providing similar benefits,  
25 as determined by the insurer, which is still being marketed in  
26 the state by the same insurer, unless the insurer has no other  
27 policy form ~~forms~~ providing similar benefits ~~shall be combined~~  
28 ~~for all rating purposes.~~ For purposes of this section, a form  
29 is considered active if the form has been marketed in this  
30 state in the past 6 months.

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1           (7)(a) Each insurer subject to the requirements of  
2 subsection (6) shall make an annual filing with the department  
3 no later than 12 months after its previous filing,  
4 establishing compliance with the standards in s. 627.411(2)  
5 for each insurance policy form, excluding noncancelable policy  
6 forms. For guaranteed renewable medical indemnity, loss of  
7 income, and disability income policy forms, the filing shall  
8 be biennial and made no later than 24 months after its  
9 previous filing ~~demonstrating the reasonableness of benefits~~  
10 ~~in relation to premium rates.~~ The department, after receiving  
11 a request to be exempted from the provisions of this section,  
12 may, for good cause due to insignificant numbers of policies  
13 in force or insignificant premium volume, exempt a company, by  
14 line of coverage, from filing rates or rate certification as  
15 required by this section.

16           (b) The filing required by this subsection shall be  
17 satisfied by one of the following methods:

18           1. A rate filing prepared by an actuary which contains  
19 documentation establishing ~~demonstrating~~ the reasonableness of  
20 benefits in relation to premiums charged ~~in accordance with~~  
21 ~~the applicable rating laws and rules promulgated by the~~  
22 ~~department.~~ For premium rate changes, benefits shall be deemed  
23 reasonable in relation to premium charged if both of the  
24 following loss ratios meet or exceed the standards established  
25 in s. 627.411(2).

26           a. The anticipated loss ratio over the entire future  
27 period for which the revised rates are computed to provide  
28 coverage; and

29           b. The lifetime anticipated loss ratio derived by  
30 dividing the amount determined under sub-sub-subparagraph (I)  
31 by the amount determined under sub-sub-subparagraph (II):

1       (I) The sum of the accumulated benefits from the  
2 original effective date of the form to the effective date of  
3 the revision, and the present value of future benefits.  
4       (II) The sum of the accumulated premiums from the  
5 original effective date of the form to the effective date of  
6 the revision, and the present value of future premiums, which  
7 present values shall be taken over the entire period for which  
8 the revised rates are computed to provide coverage and which  
9 accumulated benefits and premiums shall include an explicit  
10 estimate of actual benefits and premiums from the last date an  
11 accounting has been made to the effective date of the  
12 revision.  
13  
14 Interest shall be used in the calculation of these accumulated  
15 benefits and premiums and present values in the calculation of  
16 the loss ratio. For purposes of sub-sub-subparagraph (I), the  
17 present value of benefits may, at the insurer's option,  
18 include recognition of the policy reserve as a benefit  
19 (addition), or the present value of premiums may, at the  
20 insurer's option, include recognition of the policy reserve as  
21 a deduction. Anticipated loss ratios lower than those  
22 indicated in sub-sub-subparagraphs (I) and (II) shall require  
23 justification based on special circumstances that may be  
24 applicable, including, but not limited to: accident only,  
25 short-term nonrenewable, specified peril, and other special  
26 risks; marketing methods; giving due consideration to  
27 acquisition and administration costs and premium mode;  
28 extraordinary expenses; high risk of claims fluctuation  
29 because of low loss frequency or the catastrophic or  
30 experimental nature of the coverage; product features, such as  
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1 long elimination periods, high deductibles, and high maximum  
2 limits; and the industrial or debit method of distribution.

3           2. If no rate change is proposed, a filing which  
4 consists of a certification by an actuary that benefits are  
5 reasonable in relation to premiums currently charged in  
6 accordance with the loss ratio standards established in this  
7 section and s. 627.411(2)~~applicable laws and rules~~  
8 ~~promulgated by the department.~~

9           3. For premium rate changes for group policy forms,  
10 benefits shall be deemed reasonable in relation to premium  
11 charged if the anticipated loss ratio over the entire future  
12 period for which the revised rates are computed to provide  
13 coverage meets or exceeds the standards established in s.  
14 627.411(2).

15           4. An insurer may combine the experience of similar  
16 policy forms in the required filing.

17           (c) As used in this section, the term "actuary" means  
18 an individual who is a member of the Society of Actuaries or  
19 the American Academy of Actuaries. If an insurer does not  
20 employ or otherwise retain the services of an actuary, the  
21 insurer's certification shall be prepared by insurer personnel  
22 or consultants with a minimum of 5 years' experience in  
23 insurance ratemaking and~~The~~ chief executive officer of the  
24 insurer shall review and sign the certification indicating his  
25 or her agreement with its conclusions.

26           (d) If at the time a filing is required under this  
27 section an insurer is in the process of completing a rate  
28 review, the insurer may apply to the department for an  
29 extension of up to an additional 30 days in which to make the  
30 filing. The request for extension must be received by the  
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1 department in its offices in Tallahassee no later than the  
2 date the filing is due.

3 (e) If an insurer fails to meet the filing  
4 requirements of this subsection and does not submit the filing  
5 within 60 days following the date the filing is due, the  
6 department may, in addition to any other penalty authorized by  
7 law, order the insurer to discontinue the issuance of policies  
8 for which the required filing was not made, until such time as  
9 the ~~department determines that the~~ required filing is properly  
10 submitted.

11 (8)(a) For the purposes of subsections (6) and (7) and  
12 s. 627.411, benefits of an individual accident and health  
13 insurance policy form, including Medicare supplement policies  
14 as defined in s. 627.672, ~~when authorized by rules adopted by~~  
15 ~~the department~~, and excluding long-term care insurance  
16 policies as defined in s. 627.9404, and other policy forms  
17 under which more than 50 percent of the policies are issued to  
18 individuals age 65 and over, are deemed to comply with the  
19 provisions cited in this section ~~to be reasonable in relation~~  
20 ~~to premium rates~~ if the rates are filed pursuant to a loss  
21 ratio guarantee and both the initial rates and the durational  
22 and lifetime loss ratios have been approved by the department,  
23 and such benefits shall continue to be deemed reasonable for  
24 renewal rates while the insurer complies with such guarantee,  
25 provided the currently expected lifetime loss ratio is not  
26 more than 5 percent less than the filed lifetime loss ratio as  
27 certified to by an actuary. The department shall have the  
28 right to bring an administrative action should it deem that  
29 the lifetime loss ratio will not be met. For Medicare  
30 supplement filings, the department may withdraw a previously  
31 approved filing which was made pursuant to a loss ratio



1 guarantee if it determines that the filing is not in  
2 compliance with ss. 627.671-627.675 or the currently expected  
3 lifetime loss ratio is less than the filed lifetime loss ratio  
4 as certified by an actuary in the initial guaranteed loss  
5 ratio filing. If this section conflicts with ss.  
6 627.671-627.675, ss. 627.671-627.675 shall control.

7 (b) The renewal premium rates shall be deemed to be  
8 approved upon filing with the department if the filing is  
9 accompanied by the most current approved loss ratio guarantee.  
10 The loss ratio guarantee shall be in writing, shall be signed  
11 by an officer of the insurer, and shall contain at least:

12 1. A recitation of the anticipated lifetime and  
13 durational target loss ratios contained in the actuarial  
14 memorandum filed with the policy form when it was originally  
15 approved. The durational target loss ratios shall be  
16 calculated for 1-year experience periods. If statutory  
17 changes have rendered any portion of such actuarial memorandum  
18 obsolete, the loss ratio guarantee shall also include an  
19 amendment to the actuarial memorandum reflecting current law  
20 and containing new lifetime and durational loss ratio targets.

21 2. A guarantee that the applicable loss ratios for the  
22 experience period in which the new rates will take effect, and  
23 for each experience period thereafter until new rates are  
24 filed, will meet the loss ratios referred to in subparagraph  
25 1.

26 3. A guarantee that the applicable loss ratio results  
27 for the experience period will be independently audited at the  
28 insurer's expense. The audit shall be performed in the second  
29 calendar quarter of the year following the end of the  
30 experience period, and the audited results shall be reported  
31 to the department no later than the end of such quarter. The

1 department shall establish by rule the minimum information  
2 reasonably necessary to be included in the report. The audit  
3 shall be done in accordance with accepted accounting and  
4 actuarial principles.

5         4. A guarantee that affected policyholders in this  
6 state shall be issued a proportional refund, based on the  
7 premium earned, of the amount necessary to bring the  
8 applicable experience period loss ratio up to the durational  
9 target loss ratio referred to in subparagraph 1. The refund  
10 shall be made to all policyholders in this state who are  
11 insured under the applicable policy form as of the last day of  
12 the experience period, except that no refund need be made to a  
13 policyholder in an amount less than \$10. Refunds less than \$10  
14 shall be aggregated and paid pro rata to the policyholders  
15 receiving refunds. The refund shall include interest at the  
16 then-current variable loan interest rate for life insurance  
17 policies established by the National Association of Insurance  
18 Commissioners, from the end of the experience period until the  
19 date of payment. Payments shall be made during the third  
20 calendar quarter of the year following the experience period  
21 for which a refund is determined to be due. However, no  
22 refunds shall be made until 60 days after the filing of the  
23 audit report in order that the department has adequate time to  
24 review the report.

25         5. A guarantee that if the applicable loss ratio  
26 exceeds the durational target loss ratio for that experience  
27 period by more than 20 percent, provided there are at least  
28 2,000 policyholders on the form nationwide or, if not, then  
29 accumulated each calendar year until 2,000 policyholder years  
30 is reached, the insurer, if directed by the department, shall  
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1 withdraw the policy form for the purposes of issuing new  
2 policies.

3 (c) As used in this subsection:

4 1. "Loss ratio" means the ratio of incurred claims to  
5 earned premium.

6 2. "Applicable loss ratio" means the loss ratio  
7 attributable solely to this state if there are 2,000 or more  
8 policyholders in the state. If there are 500 or more  
9 policyholders in this state but less than 2,000, it is the  
10 linear interpolation of the nationwide loss ratio and the loss  
11 ratio for this state. If there are less than 500  
12 policyholders in this state, it is the nationwide loss ratio;  
13 however, if there are less than 2,000 policyholder years  
14 nationwide, the experience must be accumulated until the end  
15 of the calendar year in which 2,000 policyholder years are  
16 obtained.

17 3. "Experience period" means the period, ordinarily a  
18 calendar year, for which a loss ratio guarantee is calculated.

19 Section 2. Section 627.411, Florida Statutes, is  
20 amended to read:

21 627.411 ~~Grounds for Disapproval of forms.--~~

22 (1) The department shall disapprove any insurance  
23 policy form that must be filed under s. 627.410, or withdraw  
24 any previous approval thereof, only if the form:

25 (a) Is in any respect in violation of, or does not  
26 comply with, this code.

27 (b) Contains or incorporates by reference, where such  
28 incorporation is otherwise permissible, any inconsistent,  
29 ambiguous, or misleading clauses, or exceptions and conditions  
30 which deceptively affect the risk purported to be assumed in  
31 the general coverage of the contract.

- 1 (c) Has any title, heading, or other indication of its  
2 provisions which is misleading.
- 3 (d) Is printed or otherwise reproduced in such manner  
4 as to render any material provision of the form substantially  
5 illegible.
- 6 (e)1. Is for health insurance, and provides benefits  
7 which are unreasonable in relation to the premium charged as  
8 specified in s. 627.411(2); or  
9 2. Contains provisions that constitute unfair  
10 discrimination pursuant to s. 626.9541(1)(g), which are unfair  
11 or inequitable or contrary to the public policy of this state  
12 or that which encourage misrepresentation or which apply  
13 rating practices which result in premium escalations that are  
14 not viable for the policyholder market or result in unfair  
15 discrimination in sales practices.
- 16 (f) Excludes coverage for human immunodeficiency virus  
17 infection or acquired immune deficiency syndrome or contains  
18 limitations in the benefits payable, or in the terms or  
19 conditions of such contract, for human immunodeficiency virus  
20 infection or acquired immune deficiency syndrome which are  
21 different than those which apply to any other sickness or  
22 medical condition.
- 23 (2) ~~In determining whether the Benefits are deemed~~  
24 ~~reasonable in relation to the premium charged if premium rates~~  
25 ~~are neither excessive nor inadequate as specified in this~~  
26 ~~subsection., the department, in accordance with reasonable~~  
27 ~~actuarial techniques, shall consider:~~
- 28 (a) ~~Past loss experience and prospective loss~~  
29 ~~experience within and without this state.~~
- 30 (b) ~~Allocation of expenses.~~
- 31



<u>Group size</u>	<u>Loss ratio</u>
<u>Fewer than 51 certificates</u>	<u>65 percent</u>
<u>51 through 500 certificates</u>	<u>70 percent</u>
<u>All others</u>	<u>75 percent</u>

b. Group medical indemnity or any group policy with an average annual premium per certificate of less than \$1,000.

<u>Group size</u>	<u>Loss ratio</u>
<u>Fewer than 51 certificates</u>	<u>57.5 percent</u>
<u>51 through 500 certificates</u>	<u>62.5 percent</u>
<u>All others</u>	<u>67.5 percent</u>

3. Group conversion insurance, other than long-term-care insurance and Medicare supplement insurance, issued on either a group or an individual basis, shall have a loss ratio of not less than 120 percent, subject to the limits described in s. 627.6675.

4. The lifetime loss ratios in subparagraphs 1. and 2. may be adjusted in accordance with the following formula:

$$R' = (A - 25I) R/A$$

Where:

R = the loss ratio from subparagraphs 1. and 2.

A = the average annualized premium per individual policy or per group certificate.

I = (CPI-U, year N-1)/103.9.

R' = the adjusted loss ratio.

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2 R' cannot be more than 10 percentage points less than R nor  
3 less than 50 percent, except that R' cannot be less than 45  
4 percent as to accident only noncancellable policies. The CPI-U  
5 is the consumer price index for all urban consumers, for all  
6 items and for all regions of the United States combined, as  
7 determined by the United States Department of Labor, Bureau of  
8 Labor Statistics as of September of each year. Year N-1 is  
9 the calendar year immediately preceding the calendar year N in  
10 which the rate filing is submitted in this state.

11 5. Blanket insurance is exempt from the loss ratios  
12 described in subparagraphs 1.-3. The minimum loss ratio for  
13 blanket insurance is 65 percent.

14 6. Medicare supplement and long-term-care insurance  
15 are exempt from the loss ratios described in subparagraphs  
16 1.-3. The minimum loss ratios for Medicare supplement  
17 insurance must be established in accordance with s. 627.6745.  
18 Benefits under long-term care insurance policies shall be  
19 deemed reasonable in relation to premiums provided the  
20 expected loss ratio is at least 60 percent, calculated in a  
21 manner which provides for adequate reserving of the long-term  
22 care insurance risk. In evaluating the expected loss ratio,  
23 due consideration shall be given to: statistical credibility  
24 of incurred claims experience and earned premiums; the period  
25 for which rates are computed to provide coverage; experienced  
26 and projected trends; the concentration of experience within  
27 early policy duration; expected claim fluctuations; experience  
28 refunds, adjustments, or dividends; renewability features; all  
29 appropriate expense factors; interest; the experimental nature  
30 of the coverage; policy reserves; the mix of business by risk  
31 classification; and product features such as long elimination

1 periods, high deductibles, and high maximum limits.  
2 Additionally, except to the extent of any conflict with this  
3 code. The department shall adopt rules to implement this  
4 subsection, and such rules shall include the factors specified  
5 in section 17A of the Long-Term Care Model Regulations, as  
6 approved by the National Association of Insurance  
7 Commissioners in July 1998.  
8 7. The anticipated future loss ratio shall be  
9 calculated as the present value of anticipated future benefits  
10 divided by the present value of future premiums, calculated  
11 over the entire period for which the revised rates are  
12 computed to provide coverage.  
13 8. The lifetime loss ratio shall be calculated as the  
14 sum of:  
15 a. The accumulated benefits from the original  
16 effective date of the form to the effective date of the  
17 revision.  
18 b. The present value of anticipated future benefits  
19 divided by the sum of the accumulated premiums from the  
20 original effective date of the form to the effective date of  
21 the revision.  
22 c. The present value of anticipated future premiums,  
23 with future values calculated over the entire period for which  
24 the revised rates are computed to provide coverage.  
25 9. Interest shall be used in the calculation of  
26 accumulated and present values of benefits and premiums.  
27 10. The minimum loss ratio for individual contracts  
28 and group certificate forms issued, delivered, or issued for  
29 delivery in this state prior to June 1, 1994, that were  
30 approved by the department prior to February 1, 1994, shall be  
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1 the loss ratio and loss ratio adjustment formula that was in  
2 effect at the time the form was approved.  
3 11. Anticipated loss ratios lower than those required  
4 in subparagraph (a)1. or subparagraph (a)2. shall require  
5 justification based upon special circumstances that may be  
6 applicable, including, but not limited to:  
7 a. Accident only, short-term nonrenewable, specified  
8 peril, and other special risks.  
9 b. Marketing methods; giving due consideration to  
10 acquisition and administration costs and premium mode;  
11 extraordinary expenses; high risks of claims fluctuation  
12 because of low loss frequency or the catastrophic or  
13 experimental nature of the coverage; product features, such as  
14 long elimination periods, high deductibles, and high maximum  
15 limits; and the industrial or debit method of distribution.  
16 (b) Premium rates are not inadequate if the insurer  
17 demonstrates, in accordance with generally accepted standards  
18 of actuarial practice, that the sum of premium income and  
19 investment income, minus the sum of benefit payments,  
20 expenses, taxes, and contingency margins is greater than zero.  
21 Section 3. This act shall take effect July 1, 2000.  
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