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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/19/2017	.	
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The Committee on Rules (Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 32

and insert:

Section 3. Subsection (1) of section 626.88, Florida Statutes, is amended to read:

626.88 Definitions.—For the purposes of this part, the term:

(1) "Administrator" is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this



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12 state in connection with authorized commercial self-insurance  
13 funds or with insured or self-insured programs which provide  
14 life or health insurance coverage or coverage of any other  
15 expenses described in s. 624.33(1); ~~or~~ any person who, through a  
16 health care risk contract as defined in s. 641.234 with an  
17 insurer or health maintenance organization, provides billing and  
18 collection services to health insurers and health maintenance  
19 organizations on behalf of health care providers; or a pharmacy  
20 benefits manager as defined in s. 465.1862(1). The term does not  
21 include the following persons, other than any of the following  
22 persons:

23 (a) An employer or wholly owned direct or indirect  
24 subsidiary of an employer, on behalf of such employer's  
25 employees or the employees of one or more subsidiary or  
26 affiliated corporations of such employer.

27 (b) A union on behalf of its members.

28 (c) An insurance company which is either authorized to  
29 transact insurance in this state or is acting as an insurer with  
30 respect to a policy lawfully issued and delivered by such  
31 company in and pursuant to the laws of a state in which the  
32 insurer was authorized to transact an insurance business.

33 (d) A health care services plan, health maintenance  
34 organization, professional service plan corporation, or person  
35 in the business of providing continuing care, possessing a valid  
36 certificate of authority issued by the office, and the sales  
37 representatives thereof, if the activities of such entity are  
38 limited to the activities permitted under the certificate of  
39 authority.

40 (e) An entity that is affiliated with an insurer and that



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41 only performs the contractual duties, between the administrator  
42 and the insurer, of an administrator for the direct and assumed  
43 insurance business of the affiliated insurer. The insurer is  
44 responsible for the acts of the administrator and is responsible  
45 for providing all of the administrator's books and records to  
46 the insurance commissioner, upon a request from the insurance  
47 commissioner. For purposes of this paragraph, the term "insurer"  
48 means a licensed insurance company, health maintenance  
49 organization, prepaid limited health service organization, or  
50 prepaid health clinic.

51 (f) A nonresident entity licensed in its state of domicile  
52 as an administrator if its duties in this state are limited to  
53 the administration of a group policy or plan of insurance and no  
54 more than a total of 100 lives for all plans reside in this  
55 state.

56 (g) An insurance agent licensed in this state whose  
57 activities are limited exclusively to the sale of insurance.

58 (h) A person licensed as a managing general agent in this  
59 state, whose activities are limited exclusively to the scope of  
60 activities conveyed under such license.

61 (i) An adjuster licensed in this state whose activities are  
62 limited to the adjustment of claims.

63 (j) A creditor on behalf of such creditor's debtors with  
64 respect to insurance covering a debt between the creditor and  
65 its debtors.

66 (k) A trust and its trustees, agents, and employees acting  
67 pursuant to such trust established in conformity with 29 U.S.C.  
68 s. 186.

69 (l) A trust exempt from taxation under s. 501(a) of the



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70 Internal Revenue Code, a trust satisfying the requirements of  
71 ss. 624.438 and 624.439, or any governmental trust as defined in  
72 s. 624.33(3), and the trustees and employees acting pursuant to  
73 such trust, or a custodian and its agents and employees,  
74 including individuals representing the trustees in overseeing  
75 the activities of a service company or administrator, acting  
76 pursuant to a custodial account which meets the requirements of  
77 s. 401(f) of the Internal Revenue Code.

78 (m) A financial institution which is subject to supervision  
79 or examination by federal or state authorities or a mortgage  
80 lender licensed under chapter 494 who collects and remits  
81 premiums to licensed insurance agents or authorized insurers  
82 concurrently or in connection with mortgage loan payments.

83 (n) A credit card issuing company which advances for and  
84 collects premiums or charges from its credit card holders who  
85 have authorized such collection if such company does not adjust  
86 or settle claims.

87 (o) A person who adjusts or settles claims in the normal  
88 course of such person's practice or employment as an attorney at  
89 law and who does not collect charges or premiums in connection  
90 with life or health insurance coverage.

91 (p) A person approved by the department who administers  
92 only self-insured workers' compensation plans.

93 (q) A service company or service agent and its employees,  
94 authorized in accordance with ss. 626.895-626.899, serving only  
95 a single employer plan, multiple-employer welfare arrangements,  
96 or a combination thereof.

97 (r) Any provider or group practice, as defined in s.  
98 456.053, providing services under the scope of the license of



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99 the provider or the member of the group practice.

100 (s) Any hospital providing billing, claims, and collection  
101 services solely on its own and its physicians' behalf and  
102 providing services under the scope of its license.

103 (t) A corporation not for profit whose membership consists  
104 entirely of local governmental units authorized to enter into  
105 risk management consortiums under s. 112.08.

106

107 A person who provides billing and collection services to health  
108 insurers and health maintenance organizations on behalf of  
109 health care providers shall comply with ~~the provisions of~~ ss.  
110 627.6131, 641.3155, and 641.51(4).

111 Section 4. Present subsection (6) of section 626.8805,  
112 Florida Statutes, is redesignated as subsection (7), and a new  
113 subsection (6) is added to that section, to read:

114 626.8805 Certificate of authority to act as administrator.-

115 (6) The office shall conduct quarterly audits of each  
116 pharmacy benefits manager who holds a certificate of authority  
117 to act as an administrator under this part for the purpose of  
118 determining whether the pharmacy benefits manager violated any  
119 provision of s. 465.1862 or failed to perform as required under  
120 that section.

121 Section 5. Subsection (2) of section 626.891, Florida  
122 Statutes, is amended to read:

123 626.891 Grounds for suspension or revocation of certificate  
124 of authority.-

125 (2) The office may, in its discretion, suspend or revoke  
126 the certificate of authority of an administrator if it finds  
127 that the administrator:



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128 (a) Has violated any lawful rule or order of the commission  
129 or office, or any provision of this chapter, s. 465.1862, or s.  
130 465.1885;

131 (b) Has refused to be examined or to produce its accounts,  
132 records, and files for examination, or if any of its officers  
133 has refused to give information with respect to its affairs or  
134 has refused to perform any other legal obligation as to such  
135 examination, when required by the office;

136 (c) Has, without just cause, refused to pay proper claims  
137 or perform services arising under its contracts or has, without  
138 just cause, compelled insured persons to accept less than the  
139 amount due them or to employ attorneys or bring suit against the  
140 administrator to secure full payment or settlement of such  
141 claims;

142 (d) Is or was affiliated with and under the same general  
143 management or interlocking directorate or ownership as another  
144 administrator which transacts business in this state without  
145 having a certificate of authority;

146 (e) At any time fails to meet any qualification for which  
147 issuance of the certificate could have been refused had such  
148 failure then existed and been known to the office;

149 (f) Has been convicted of, or has entered a plea of guilty  
150 or nolo contendere to, a felony relating to the business of  
151 insurance or insurance administration in this state or in any  
152 other state without regard to whether adjudication was withheld;  
153 or

154 (g) Is under suspension or revocation in another state.

155 Section 6. Subsection (3) of section 626.894, Florida  
156 Statutes, is amended to read:



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157           626.894 Administrative fine in lieu of suspension or  
158 revocation.—

159           (3) With respect to any knowing and willful violation of a  
160 lawful order or rule of the office or commission, ~~or~~ a provision  
161 of this part, s. 465.1862, or s. 465.1885, the office may impose  
162 a fine upon the administrator in an amount not to exceed \$5,000  
163 for each such violation. In no event may such fine exceed an  
164 aggregate amount of \$25,000 for all knowing and willful  
165 violations arising out of the same action. In addition to such  
166 fine, the administrator shall make restitution when due in  
167 accordance with the provisions of subsection (2).

168           Section 7. Until December 31, 2017, the Office of Insurance  
169 Regulation may not penalize a pharmacy benefits manager, as  
170 defined in s. 465.1862(1), Florida Statutes, for operating as an  
171 administrator if the pharmacy benefits manager applies for a  
172 certificate of authority by October 1, 2017, and is issued such  
173 certificate of authority by December 1, 2017.

174           Section 8. This act shall take effect July 1, 2017.

175  
176 ===== T I T L E   A M E N D M E N T =====

177 And the title is amended as follows:

178           Delete lines 2 - 8

179 and insert:

180           An act relating to health care; amending s. 627.6131,  
181 F.S.; prohibiting a health insurer from retroactively  
182 denying a claim under specified circumstances;  
183 amending s. 641.3155, F.S.; prohibiting a health  
184 maintenance organization from retroactively denying a  
185 claim under specified circumstances; amending s.



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186 626.88, F.S.; redefining the term "administrator" to  
187 include a pharmacy benefits manager; amending s.  
188 626.8805, F.S.; requiring the Office of Insurance  
189 Regulation to conduct quarterly audits, for a certain  
190 purpose, of pharmacy benefits managers that hold  
191 certificates of authority to act as administrators;  
192 amending ss. 626.891 and 626.894, F.S.; adding  
193 violations of certain provisions of the Florida  
194 Pharmacy Act as grounds for the office's suspension or  
195 revocation of an administrator's certificate of  
196 authority or imposition of a fine, respectively;  
197 prohibiting the office, within a specified timeframe,  
198 from penalizing a pharmacy benefits manager for  
199 operating as an administrator if the pharmacy benefits  
200 manager meets certain conditions; providing an  
201 effective date.