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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.; defining the terms "EHB-benchmark plan" and
6 "PPACA"; authorizing health insurers and health
7 maintenance organizations to create new health
8 insurance policies and health maintenance contracts
9 meeting certain criteria for essential health benefits
10 under the federal Patient Protection and Affordable
11 Care Act (PPACA); providing that such criteria may be
12 met by certain means; providing construction;
13 providing that such policies and contracts created by
14 health insurers and health maintenance organizations
15 may be submitted to the Office of Insurance Regulation
16 for certain purposes; amending s. 627.6045, F.S.;
17 revising applicability of requirements relating to
18 preexisting conditions; revising the font size for a
19 certain disclosure; creating s. 627.6046, F.S.;
20 defining the terms "operative date" and "preexisting
21 medical condition" with respect to individual health
22 insurance policies; requiring certain insurers,
23 contingent upon the occurrence of either of two
24 specified events, to make at least one comprehensive
25 major medical health insurance policy available to all
26 residents of this state within a specified timeframe;
27 prohibiting such insurers from excluding, limiting,
28 denying, or delaying coverage under such policies due
29 to preexisting medical conditions; requiring such

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30 policies to have been actively marketed on a specified
31 date and during a certain timeframe before that date;
32 providing applicability; amending s. 627.6425, F.S.;
33 revising the definition of the term "individual health
34 insurance" relating to renewability of individual
35 coverage; creating ss. 627.6426 and 627.6525, F.S.;
36 defining the term "short-term health insurance";
37 providing disclosure requirements for short-term
38 individual, group, blanket, and franchise health
39 insurance policies; amending s. 627.654, F.S.;
40 revising requirements for, and applicability relating
41 to, association and small employer policies; creating
42 s. 627.65612, F.S.; defining the terms "operative
43 date" and "preexisting medical condition" with respect
44 to group health insurance policies; requiring certain
45 insurers, contingent upon the occurrence of either of
46 two specified events, to make at least one
47 comprehensive major medical health insurance policy
48 available to all residents of this state within a
49 specified timeframe; prohibiting such insurers from
50 excluding, limiting, denying, or delaying coverage
51 under such policies due to preexisting medical
52 conditions; requiring such policies to have been
53 actively marketed on a specified date and during a
54 certain timeframe before that date; providing
55 applicability; amending s. 641.31, F.S.; defining the
56 terms "operative date" and "preexisting medical
57 condition" with respect to health maintenance
58 contracts; requiring health maintenance organizations,

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59 contingent upon the occurrence of either of two
60 specified events, to make at least one comprehensive
61 major medical health maintenance contract available to
62 all residents of this state within a specified
63 timeframe; prohibiting such health maintenance
64 organizations from excluding, limiting, denying, or
65 delaying coverage under such contracts due to
66 preexisting medical conditions; requiring such
67 contracts to have been actively marketed on a
68 specified date and during a certain timeframe before
69 that date; defining the terms "EHB-benchmark plan" and
70 "office"; requiring the office to conduct a study
71 evaluating this state's current benchmark plan for
72 essential health benefits under PPACA and options for
73 changing the benchmark plan for future plan years;
74 requiring the office, in conducting the study, to
75 consider plans and certain benefits used by other
76 states and to compare costs with those of this state;
77 requiring the office to solicit and consider proposed
78 health plans from health insurers and health
79 maintenance organizations in developing
80 recommendations; requiring the office, by a certain
81 date, to provide a report with certain recommendations
82 and a certain analysis to the Governor and the
83 Legislature; providing for severability; providing
84 effective dates.

85
86 Be It Enacted by the Legislature of the State of Florida:
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88 Section 1. Effective July 1, 2019, paragraph (b) of
89 subsection (1) of section 624.438, Florida Statutes, is amended
90 to read:

91 624.438 General eligibility.—

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

95 (b)~~1~~. Must be established by a bona fide group ~~trade~~
96 ~~association, industry association, or professional~~ association
97 of employers as defined in 29 C.F.R. s. 2510.3-5 ~~or~~
98 ~~professionals~~ which has a constitution or bylaws specifically
99 stating its purpose and which has been organized ~~and maintained~~
100 ~~in good faith for a continuous period of 1 year for purposes in~~
101 addition to ~~other than that of~~ obtaining or providing insurance.

102 ~~2. Must not combine member employers from disparate trades,~~
103 ~~industries, or professions as defined by the appropriate~~
104 ~~licensing agencies, and must not combine member employers from~~
105 ~~more than one of the employer categories defined in sub-~~
106 ~~subparagraphs a.-c.~~

107 ~~a. A trade association consists of member employers who are~~
108 ~~in the same trade as recognized by the appropriate licensing~~
109 ~~agency.~~

110 ~~b. An industry association consists of member employers who~~
111 ~~are in the same major group code, as defined by the Standard~~
112 ~~Industrial Classification Manual issued by the federal Office of~~
113 ~~Management and Budget, unless restricted by sub-subparagraph a.~~
114 ~~or sub-subparagraph c.~~

115 ~~e. A professional association consists of member employers~~
116 ~~who are of the same profession as recognized by the appropriate~~

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117 ~~licensing agency.~~

118

119 The requirements of this paragraph ~~subparagraph~~ do not apply to
120 an arrangement licensed before ~~prior to~~ April 1, 1995,
121 regardless of the nature of its business. However, an
122 arrangement exempt from the requirements of this paragraph
123 ~~subparagraph~~ may not expand the nature of its business beyond
124 that set forth in the articles of incorporation of its
125 sponsoring association as of April 1, 1995, except as authorized
126 in this paragraph ~~subparagraph~~.

127 Section 2. Section 627.443, Florida Statutes, is created to
128 read:

129 627.443 Essential health benefits.—

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

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

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

134 (2) A health insurer or health maintenance organization
135 issuing or delivering an individual or a group health insurance
136 policy or health maintenance contract in this state may create a
137 new health insurance policy or health maintenance contract that:

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

141 (b) May fulfill the requirement in paragraph (a) by
142 selecting one or more services or coverages for each of the
143 required categories from the list of essential health benefits
144 required by any single state or multiple states; and

145 (c) May comply with paragraphs (a) and (b) by selecting one

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146 or more services or coverages from any one or more of the
147 required categories of essential health benefits from one state
148 or multiple states.

149 (3) This section specifically authorizes an insurer or
150 health maintenance organization to include any combination of
151 services or coverages required by any one or a combination of
152 states to provide the 10 categories of essential health benefits
153 required under PPACA in a policy or contract issued in this
154 state.

155 (4) Health insurance policies and health maintenance
156 contracts created by health insurers and health maintenance
157 organizations under this section:

158 (a) May be submitted to the office for consideration as
159 part of the office's study of this state's essential health
160 benefits benchmark plan; and

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

164 Section 3. Effective July 1, 2019, subsection (3) of
165 section 627.6045, Florida Statutes, is amended to read:

166 627.6045 Preexisting condition.—A health insurance policy
167 must comply with the following:

168 (3) This section does not apply to short-term, ~~nonrenewable~~
169 ~~health insurance policies of no more than a 6-month policy term,~~
170 provided that it is clearly disclosed to the applicant in the
171 advertising and application, in 14-point ~~10-point~~ contrasting
172 type, that "This policy does not meet the definition of
173 qualifying previous coverage or qualifying existing coverage as
174 defined in s. 627.6699. As a result, if purchased in lieu of a

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175 conversion policy or other group coverage, you may have to meet
176 a preexisting condition requirement when renewing or purchasing
177 other coverage.”

178 Section 4. Effective July 1, 2019, section 627.6046,
179 Florida Statutes, is created to read:

180 627.6046 Limit on preexisting conditions.—

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

182 (a) “Operative date” means the date on which either of the
183 following occurs with respect to the Patient Protection and
184 Affordable Care Act, Pub. L. No. 111-148, as amended by the
185 Health Care and Education Reconciliation Act of 2010, Pub. L.
186 No. 111-152 (PPACA):

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

188 or

189 2. PPACA is invalidated by the United States Supreme Court.

190 (b) “Preexisting medical condition” means a condition that
191 was present before the effective date of coverage under a
192 policy, whether or not any medical advice, diagnosis, care, or
193 treatment was recommended or received before the effective date
194 of coverage. The term includes a condition identified as a
195 result of a preenrollment questionnaire or physical examination
196 given to the individual, or review of medical records relating
197 to the preenrollment period.

198 (2) (a) Not later than 30 days after the operative date, and
199 notwithstanding s. 627.6045 or any other law to the contrary,
200 every insurer issuing, delivering, or issuing for delivery
201 comprehensive major medical individual health insurance policies
202 in this state shall make at least one comprehensive major
203 medical health insurance policy available to all residents of

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204 this state, and such insurer may not exclude, limit, deny, or
205 delay coverage under such policy due to one or more preexisting
206 medical conditions.

207 (b) An insurer may not limit or exclude benefits under such
208 policy, including a denial of coverage applicable to an
209 individual as a result of information relating to an
210 individual's health status before the individual's effective
211 date of coverage, or if coverage is denied, the date of the
212 denial.

213 (3) The comprehensive major medical health insurance policy
214 that the insurer is required to offer under this section must be
215 a policy that had been actively marketed in this state by the
216 insurer as of the operative date and that was also actively
217 marketed in this state during the year immediately preceding the
218 operative date.

219 (4) This section does not apply to an insurer that issues
220 only limited benefit, disability income, specified disease,
221 Medicare supplement, or hospital indemnity policies in this
222 state.

223 Section 5. Effective July 1, 2019, subsection (1) of
224 section 627.6425, Florida Statutes, is amended to read:

225 627.6425 Renewability of individual coverage.—

226 (1) Except as otherwise provided in this section, an
227 insurer that provides individual health insurance coverage to an
228 individual shall renew or continue in force such coverage at the
229 option of the individual. For the purpose of this section, the
230 term "individual health insurance" means health insurance
231 coverage, as described in s. 624.603, offered to an individual
232 in this state, including certificates of coverage offered to

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233 individuals in this state as part of a group policy issued to an
234 association outside this state, but the term does not include
235 ~~short-term limited duration insurance or~~ excepted benefits
236 specified in s. 627.6513(1)-(14).

237 Section 6. Effective July 1, 2019, section 627.6426,
238 Florida Statutes, is created to read:

239 627.6426 Short-term health insurance.-

240 (1) For purposes of this part, the term "short-term health
241 insurance" means health insurance coverage provided by an issuer
242 with an expiration date specified in the contract which is less
243 than 12 months after the original effective date of the contract
244 and, taking into account renewals or extensions, has a duration
245 not to exceed 36 months in total.

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

249
250 "This coverage is not required to comply with certain federal
251 market requirements for health insurance, principally those
252 contained in the Patient Protection and Affordable Care Act. Be
253 sure to check your policy carefully to make sure you are aware
254 of any exclusions or limitations regarding coverage of
255 preexisting conditions or health benefits (such as
256 hospitalization, emergency services, maternity care, preventive
257 care, prescription drugs, and mental health and substance use
258 disorder services). Your policy might also have lifetime and/or
259 annual dollar limits on health benefits. If this coverage
260 expires or you lose eligibility for this coverage, you might
261 have to wait until an open enrollment period to get other health

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262 insurance coverage."

263 Section 7. Effective July 1, 2019, section 627.6525,
264 Florida Statutes, is created to read:

265 627.6525 Short-term health insurance.-

266 (1) For purposes of this part, the term "short-term health
267 insurance" means a group, blanket, or franchise policy of health
268 insurance coverage provided by an issuer with an expiration date
269 specified in the contract which is less than 12 months after the
270 original effective date of the contract and, taking into account
271 renewals or extensions, has a duration not to exceed 36 months
272 in total.

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

276

277 "This coverage is not required to comply with certain federal
278 market requirements for health insurance, principally those
279 contained in the Patient Protection and Affordable Care Act. Be
280 sure to check your policy carefully to make sure you are aware
281 of any exclusions or limitations regarding coverage of
282 preexisting conditions or health benefits (such as
283 hospitalization, emergency services, maternity care, preventive
284 care, prescription drugs, and mental health and substance use
285 disorder services). Your policy might also have lifetime and/or
286 annual dollar limits on health benefits. If this coverage
287 expires or you lose eligibility for this coverage, you might
288 have to wait until an open enrollment period to get other health
289 insurance coverage."

290 Section 8. Effective July 1, 2019, subsection (1) of

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291 section 627.654, Florida Statutes, is amended to read:

292 627.654 Labor union, association, and small employer health
293 alliance groups.—

294 (1) (a) A bona fide group or association of employers, as
295 defined in 29 C.F.R. s. 2510.3-5, or a group of individuals may
296 be insured under a policy issued to an association, including a
297 labor union, which association has a constitution and bylaws ~~and~~
298 ~~not less than 25 individual members~~ and which has been organized
299 ~~and has been maintained in good faith for a period of 1 year~~ for
300 purposes in addition to ~~other than that of~~ obtaining insurance,
301 or to the trustees of a fund established by such an association,
302 which association or trustees shall be deemed the policyholder,
303 insuring at least 15 individual members of the association for
304 the benefit of persons other than the officers of the
305 association, the association, or trustees.

306 (b) A small employer, as defined in s. 627.6699 and
307 including the employer's eligible employees and the spouses and
308 dependents of such employees, may be insured under a policy
309 issued to a small employer health alliance by a carrier as
310 defined in s. 627.6699. ~~A small employer health alliance must be~~
311 ~~organized as a not-for-profit corporation under chapter 617.~~
312 ~~Notwithstanding any other law, if a small employer member of an~~
313 ~~alliance loses eligibility to purchase health care through the~~
314 ~~alliance solely because the business of the small employer~~
315 ~~member expands to more than 50 and fewer than 75 eligible~~
316 ~~employees, the small employer member may, at its next renewal~~
317 ~~date, purchase coverage through the alliance for not more than 1~~
318 ~~additional year. A small employer health alliance shall~~
319 ~~establish conditions of participation in the alliance by a small~~

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320 ~~employer, including, but not limited to:~~

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

323 ~~2. Assurance that the employees of a small employer have~~
324 ~~not been added for the purpose of securing health benefit~~
325 ~~coverage.~~

326 Section 9. Effective July 1, 2019, section 627.65612,
327 Florida Statutes, is created to read:

328 627.65612 Limit on preexisting conditions.-

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

332 (2) (a) Not later than 30 days after the operative date, and
333 notwithstanding s. 627.6561 or any other law to the contrary,
334 every insurer issuing, delivering, or issuing for delivery
335 comprehensive major medical group health insurance policies in
336 this state shall make at least one comprehensive major medical
337 health insurance policy available to all residents of this
338 state, and such insurer may not exclude, limit, deny, or delay
339 coverage under such policy due to one or more preexisting
340 medical conditions.

341 (b) An insurer may not limit or exclude benefits under such
342 policy, including a denial of coverage applicable to an
343 individual as a result of information relating to an
344 individual's health status before the individual's effective
345 date of coverage, or if coverage is denied, the date of the
346 denial.

347 (3) The comprehensive major medical health insurance policy
348 that the insurer is required to offer under this section must be

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349 a policy that had been actively marketed in this state by the
350 insurer as of the operative date and that was also actively
351 marketed in this state during the year immediately preceding the
352 operative date.

353 (4) This section does not apply to an insurer issuing only
354 limited benefit, disability income, specified disease, Medicare
355 supplement, or hospital indemnity policies in this state.

356 Section 10. Effective July 1, 2019, subsection (45) is
357 added to section 641.31, Florida Statutes, to read:

358 641.31 Health maintenance contracts.—

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

362 (b) Not later than 30 days after the operative date, and
363 notwithstanding s. 641.31071 or any other law to the contrary,
364 every health maintenance organization issuing, delivering, or
365 issuing for delivery individual or group contracts in this state
366 shall make at least one comprehensive major medical health
367 maintenance contract available to all residents of this state,
368 and such health maintenance organization may not exclude, limit,
369 deny, or delay coverage under such contract due to one or more
370 preexisting medical conditions. A health maintenance
371 organization may not limit or exclude benefits under such
372 contract, including a denial of coverage applicable to an
373 individual as a result of information relating to an
374 individual's health status before the individual's effective
375 date of coverage, or if coverage is denied, the date of the
376 denial.

377 (c) The comprehensive major medical health maintenance

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378 contract the health maintenance organization is required to
379 offer under this section must be a contract that had been
380 actively marketed in this state by the health maintenance
381 organization as of the operative date and that was also actively
382 marketed in this state during the year immediately preceding the
383 operative date.

384 Section 11. Study of state essential health benefits
385 benchmark plan; report.-

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

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

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

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

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

398 (b) Compare the costs of benefits within such categories
399 and overall costs of EHB-benchmark plans used by other states
400 with the costs of benefits within the categories and overall
401 costs of the current EHB-benchmark plan of this state; and

402 (c) Solicit and consider proposed individual and group
403 health plans from health insurers and health maintenance
404 organizations in developing recommendations for changes to the
405 current EHB-benchmark plan.

406 (3) By October 30, 2019, the office shall submit a report

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407 to the Governor, the President of the Senate, and the Speaker of
408 the House of Representatives which must include recommendations
409 for changing the current EHB-benchmark plan to provide
410 comprehensive care at a lower cost than this state's current
411 EHB-benchmark plan. In its report, the office shall provide an
412 analysis as to whether proposed health plans it receives under
413 paragraph (2) (c) meet the requirements for an EHB-benchmark plan
414 under 45 C.F.R. s. 156.111 (b).

415 Section 12. If any provision of this act or its application
416 to any person or circumstance is held invalid, the invalidity
417 does not affect other provisions or applications of the act
418 which can be given effect without the invalid provision or
419 application, and to this end the provisions of this act are
420 severable.

421 Section 13. Except as otherwise expressly provided in this
422 act, this act shall take effect upon becoming a law.