

STORAGE NAME: h1021s2a.hcr

DATE: March 16, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE STANDARDS AND REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 1021

RELATING TO: Health Care Practitioners/Discrimination

SPONSOR(S): Committee on Health Care Standards & Regulatory Reform and Committee on Health Care Standards & Regulatory Reform and Representative Bloom

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 4 NAYS 1
- (2) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 11 NAYS 0
- (3) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 7 NAYS 1
- (4)
- (5)

I. SUMMARY:

The bill prohibits health maintenance organizations (HMOs), and exclusive provider organizations from discriminating against licensed and certified advanced registered nurse practitioners (ARNPs) solely on the basis of such license or certification. ARNPs are licensed and certified pursuant to s. 464.012, F.S.

The discrimination provision shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees, or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

According to AHCA, the bill will not have a fiscal impact on state government, local government, and the private sector in general.

This bill was carried over to the 1998 Session pursuant to House Rule 96, in the Governmental Services Council. The Governmental Services Council referred it back to the Committee on Health Care Standards and Regulatory Reform.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Most health maintenance organizations (HMOs) and other managed health care plans provide an approved list or "provider panel" of health care practitioners for their members or subscribers to use when in need of medical assistance. HMOs or other plans usually have signed agreements providing for the terms of any service provided to a member of subscriber of the respective plans. In many instances, the approved list or "provider panel" does not include all of the professions currently covered by the definition of "health care practitioners", as defined in s. 455.01, F.S.

Section 381.0406, F.S., currently provides for rural health networks, by law, to take any willing provider; regardless of the category of licensure.

Section 455.01, F.S., includes: medical, osteopathic, chiropractic, optometric, and podiatric physicians, physician assistants, dentists, nurses, advanced registered nurse practitioners (ARNPs), nurse anesthetists, respiratory, occupational and physical therapists, and mental health counselors, to mention a majority of the professions included in the definition.

As noted above, all of the health care practitioners defined in s. 455.01, F.S., are not on the approved list or "provider panels" of many HMOs or other managed care plans. Under current law, the decision as to which type practitioners to include is the responsibility of the HMOs or various plans. IF the HMOs or other plans decide to not include certain practitioners as approved providers, there is no recourse for these practitioners to appeal.

It has been claimed by a number of health care practitioners that in a number of instances, they have been excluded from the approved list or "provider panel" based solely on the category of licensure. Without an appeals process, there is not currently any method to combat this so called practitioner discrimination. Many of these groups have expressed support for managed care non-discrimination legislation.

B. EFFECT OF PROPOSED CHANGES:

The bill prohibits health maintenance organizations (HMOs), and exclusive provider organizations from discriminating against licensed and certified advanced registered nurse practitioners (ARNPs) solely on the basis of such license or certification. ARNPs are licensed and certified pursuant to s. 464.012, F.S.

The discrimination provision is not to be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees, or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not Applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not Applicable.

(3) how is the new agency accountable to the people governed?

Not Applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not Applicable.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not Applicable.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

It would prohibit HMO's from discriminating against ARNPs based solely on their type of license.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

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(1) Who evaluates the family's needs?

Not Applicable.

(2) Who makes the decisions?

Not Applicable.

(3) Are private alternatives permitted?

Not Applicable.

(4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. STATUTE(S) AFFECTED:

Amends sections 627.6472, and creates 641.3923, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 627.6472, F.S., relating to exclusive provider organizations, by adding a new paragraph (17), to prohibit exclusive provider organizations from discriminating against licensed and certified advanced registered nurse practitioners (ARNPs) solely on the basis of such license or certification. ARNPs are licensed and certified pursuant to s. 464.012, F.S. This discrimination provision is not to be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees, or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

Section 2. Creates s. 641.3923, F.S., to prohibit health maintenance organizations (HMOs), from discriminating against licensed and certified advanced registered nurse practitioners (ARNPs) solely on the basis of such license or certification. ARNPs are licensed and certified pursuant to s. 464.012, F.S.

The discrimination provision is not to be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees, or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

Section 3. Provides an effective date of upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the Committee on Health Care Standards and Regulatory Reform. It deleted all health care practitioners as defined in 455.01, F.S., and inserted only health care practitioners licensed pursuant to chapters 458, 459, 460, 463, 464, part III of 468, 486, or 490, F.S. Also, s. 381.0406, F.S., which currently provides for rural health networks to take any willing provider, regardless of the category of licensure, was deleted from the bill. A committee substitute was made out of the bill.

On April 18, 1997, the Committee on Health and Human Services Appropriations reported the bill favorably with the following three amendments:

Amendment 1: Deletes a provision relating to compliance of health partnership networks and replaces the provision with language that states neither the insured member nor the accountable health partnership may be charged any fee for a reviewing or supervising physician. The fee may only be based on the treating provider's services provided during the visit.

Amendment 2: Conforms to Amendment 1.

Amendment 3: Deletes a provision relating to compliance of health partnership networks and replaces the provision with language that states neither the insured member nor the accountable health partnership may be charged any fee for a reviewing or supervising physician. The fee may only be based on the treating provider's services provided during the visit.

On March 9, 1998, the Committee on Health Care Standards and Regulatory Reform reported the CS/HB 1021 favorably with two amendments. A committee substitute was made out of the bill. The two amendments were as follows:

Amendment # 1 - It was a strike everything amendment that deleted the various professions listed, and replaced them with ARNPs only. It prohibited discrimination by health maintenance organizations (HMOs), accountable health partnerships, and exclusive provider organizations against ARNPs solely on the basis of their licensure.

Amendment # 2 - It deleted subsection (14), of 408.706, F.S., relating to accountable health partnerships from the bill.

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VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

Prepared by:

Legislative Research Director:

Robert W. Coggins

Robert W. Coggins

AS REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES

APPROPRIATIONS:

Prepared by:

Legislative Research Director:

James P. DeBeaugrine

Lynn S. Dixon

AS FURTHER REVISED BY THE COMMITTEE ON HEALTH CARE STANDARDS AND
REGULATORY REFORM:

Prepared by:

Legislative Research Director:

Robert W. Coggins

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