The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL:	CB/SB 702
INTRODUCER:	Banking and Insurance Committee and Senator Gaetz
SUBJECT:	Health Care Access
DATE:	March 6, 2009
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell	Wilson	HR	**Fav/2 amendments**
2.	Johnson	Burgess	BI	**Fav/CS**
3.	Kynoch	Peters	HA	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill adds a representative of the dental community to the Florida Healthy Kids Corporation board of directors. The member will be appointed by the Governor from three candidates who are nominated by the Florida Dental Association.

The estimated cost of per diem and reimbursement for travel expenses associated with the increased membership of the board of directors is minimal and the cost can be absorbed within the Florida Healthy Kids Corporation's current budget authority.

The bill creates two new provider contract prohibitions for prepaid limited health service organizations (PLHSO). Contracts between a PLHSO and a provider of limited health services may not contain provisions that prohibit or restrict the provider from contracting with other PLHSOs. This applies to all contracts entered into or renewed on or after July 1, 2009. The bill also prohibits PLHSOs from requiring providers to accept the terms of other health care practitioner contracts with the PLHSO, as a condition of contract continuation or renewal.

The bill authorizes health care practitioners to meet their service obligations over the biennial licensure period, rather than annually, in order to be eligible for the benefits available to health

care providers who volunteer their services under the Access to Health Care Act. Practitioners who volunteer 160 hours of service over two years and provide the necessary documentation to the Department of Health, are eligible for a waiver of their biennial licensure renewal fee and credit for up to 25 percent of their continuing education credits. Retired health care practitioners must volunteer 800 hours over the biennium.

This bill substantially amends ss. 624.91, 636.035, 641.315, and 766.1116, F.S.

II. Present Situation:

State Children's Health Insurance Program
The State Children's Health Insurance Program (SCHIP), enacted as part of the Balanced Budget Act of 1997, created Title XXI of the federal Social Security Act, which provides health insurance to uninsured children in low-income families either through a Medicaid expansion, a separate children's health program, or a combination of both. The SCHIP was designed as a federal/state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance. On February 4, 2009, new federal legislation, the Children's Health Insurance Program Reauthorization Act of 2009, was signed into law reauthorizing the SCHIP through federal FY 2013.

The Florida Kidcare Program
The Florida Kidcare program is Florida's SCHIP program. Florida Kidcare was established in 1998 as a combination of Medicaid expansions and public/private partnerships, with a wrap-around delivery system serving children with special health care needs. Family income level, age of the child, and whether the child has a serious health condition are the eligibility criteria that determine which component of Kidcare serves a particular child. As of December 2008, enrollment in the various components of Kidcare was 1,513,073 children.[1]

The Florida Kidcare program, codified in ss. 409.810-409.820, F.S., is an "umbrella" program, the components of which include Medicaid for children, the Florida Healthy Kids program, Medikids, and the Children's Medical Services Network. The program is jointly administered by the Agency for Health Care Administration, the Florida Healthy Kids Corporation, the Department of Health, and the Department of Children and Family Services.

Florida Healthy Kids
The Florida Healthy Kids program component of Kidcare is administered by the non-profit Florida Healthy Kids Corporation (FHKC), established in s. 624.91, F.S. The corporation contracts with managed care plans throughout the state for the provision of health care coverage. The corporation also engages a fiscal agent to perform initial eligibility screening for the program and final eligibility determination for children who are not Medicaid eligible. The FHKC is governed by a board of directors that is chaired by the Chief Financial Officer or his or her designee and includes 10 other board members who serve three-year terms. By law, board membership includes:

[1] Florida Kidcare Coordinating Council 2009 Annual Report and Recommendations found at <http://www.doh.state.fl.us/AlternateSites/KidCare/council/reports/KCC2009report-Web.pdf> (last visited on February 14, 2009).

- The Secretary of Health Care Administration, or his or her designee;
- One member appointed by the Commissioner of Education from the Office of School Health Programs of the Florida Department of Education;
- One member appointed by the Chief Financial Officer from among three members nominated by the Florida Pediatric Society;
- One member, appointed by the Governor, who represents the Children's Medical Services Program;
- One member appointed by the Chief Financial Officer from among three members nominated by the Florida Hospital Association;
- One member, appointed by the Governor, who is an expert on child health policy;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Academy of Family Physicians;
- One member, appointed by the Governor, who represents the state Medicaid program;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Association of Counties; and
- The State Health Officer or her or his designee.

Prepaid Limited Health Service Organizations

Prepaid Limited Health Service Organizations (PLHSOs), licensed under part I of ch. 636, F.S., are similar to health maintenance organizations but are limited to offering the following services: ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, and pharmaceutical services, pursuant to contractual arrangements with preferred providers in a designated service area. Section 636.035, F.S., establishes requirements for the contract between PLHSOs and providers. PLHSOs provide limited health services for a prepaid per capita or prepaid aggregate fixed sum. Subscribers receive services from providers such as dentists, mental health providers, or other persons, corporations, or partnerships, which are licensed in Florida to deliver limited health services, as defined in s. 636.003(7), F.S. According to the Office of Insurance Regulation website, there are currently 23 PLHSOs licensed in Florida.[2]

Access to Health Care Act

The Access to Health Care Act, codified in s. 766.1115, F.S., was established in 1992 to encourage health care providers to administer care to low-income persons.
Section 766.1115, F.S., extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who provide volunteer, uncompensated health care services to low-income individuals as an agent of the state. Health care providers administering services under this Act are considered agents of the state under s. 768.28(9), F.S., for purposes of extending sovereign immunity while acting within the scope of duties required under the Access to Health Care Act. As defined in, s. 766.1115, F.S., low-income persons are those who are Medicaid eligible, lack health insurance and whose family income does not exceed 200 percent of the federal poverty level, or who are clients of the Department of Health (DOH) who voluntarily choose to participate in a program offered or approved by the DOH and who meet the eligibility guidelines of the DOH.

[2] See <http://www.floir.com/CompanySearch/> (last visited on February 14, 2009).

Under s. 766.1116, F.S., health care practitioners, who provide at least 80 hours of service a year, for each year during the biennial licensure period are eligible for a waiver of their biennial license renewal fee and fulfillment of up to 25 percent of their continuing education hours required for license renewal under s. 456.013(9), F.S. To qualify, the health care practitioners must provide the appropriate documentation to the DOH during licensure renewal. Retired health care practitioners are also eligible, but must provide at least 400 hours of service a year, for each year during the two-year licensure period. Health practitioners must accumulate service hours on a yearly basis, even though their licensure period is for two years.

III. Effect of Proposed Changes:

Section 1 amends s. 624.91, F.S., relating to the FHKC board of directors, to expand the board by one member, appointed by the Governor, from among three members nominated by the Florida Dental Association.

Section 2 amends s. 636.035, F.S., to provide that a contract between a PLHSO and a provider of limited health services may not contain any provisions that in any way prohibit or restrict the provider from entering into or renewing a contract with any other PLHSO. This prohibition applies to all contracts entered into or renewed on or after July 1, 2009.

The bill also provides that a PLHSO may not require, as a condition of continuation or renewal of a contract, a contracted limited health service provider to accept the terms of other health care contracts with the PLHSO or any insurer or other PLHSO under common management and control with the PLHSO. This provision would apply to all contracts entered into or renewed on or after July 1, 2009. This prohibition includes, but is not limited to:

- Medicare and Medicaid practitioner contracts;
- Contracts authorized in s. 627.6271, F.S. (preferred provider contracts), s. 627.6472, F.S. (exclusive provider contracts), and s. 641.315; F.S. (health maintenance organization contracts); and
- Contracts authorized in s. 636.035, F.S. (PLHSO provider contracts).

The bill provides that any contract provision that violates the terms of the subsection is void and that a violation of this subsection is not subject to the general criminal penalties specified in s. 624.15, F.S. that the contract prohibition created in subsection 636.035(11), F.S.

The provisions created in the bill are very similar to the provider contract provisions for health maintenance organizations in s. 641.315, F.S.

Section 3 amends s. 641.315, F.S., relating to health maintenance organizations' provider contracts, to incorporate the PLHSO provider contract provisions created in s. 636.035, F.S., by cross reference into the current health maintenance organization provider contract provisions.

Section 4 amends s. 766.1116, F.S., relating to health care practitioners who provide service under the Access to Health Care Act, to allow them to accumulate their service hours biennially, as opposed to yearly, in order to meet the eligibility requirements to waive their biennial

licensure renewal fee and earn up to 25 percent of their continuing education requirements. The bill allows health care practitioners to accumulate volunteer time over the biennial licensure period to meet the minimum total of 160 service hours. Retired health care practitioners must accumulate a minimum total of 800 hours of service biennially.

Section 5 provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If there are currently PLHSO provider contracts that include the prohibited contract provisions created in the bill, those PLHSOs may incur a minimal cost to revise their provider contracts.

C. Government Sector Impact:

The FHKC board of directors holds four to five meetings yearly in various locations around Florida. As provided in s. 624.91(c), F.S., board members are entitled to receive reimbursement for travel expenses and per diem. The Florida Healthy Kids Corporation has indicated that any increase in budget expenditures that result from an additional board member can be absorbed within current budget authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The bill and the CS provide that contracts between a PLHSO and a provider of limited health services may not contain provisions that prohibit or restrict the provider from contracting with other PLHSOs, and applies this prohibition to all contracts entered into or renewed on or after July 1, 2009, rather than October 1, 2009, as provided in the bill, as filed.

The bill and the CS also provide that a PLHSO may not require, as a condition of continuation or renewal of a contract, a contracted limited health service provider to accept the terms of other health care contracts with the PLHSO or any insurer or other PLHSO under common management and control with the PLHSO. This prohibition would apply to all contracts entered into or renewed on or after July 1, 2009, rather than October 1, 2009, as provided in the bill, as filed.

B. Amendments:

None.