

By Representative Bloom

1 A bill to be entitled
2 An act relating to health care; amending s.
3 381.0406, F.S.; prohibiting rural health
4 networks from denying membership to certain
5 health care providers based solely on the
6 provider's category of licensure; amending s.
7 408.706, F.S.; prohibiting such discrimination
8 against applicants for participation in an
9 accountable health partnership's provider
10 network; requiring accountable health
11 partnerships to demonstrate and ensure such
12 nondiscrimination; providing for complaints;
13 providing for cease and desist orders;
14 providing for revocation of designation as an
15 accountable health partnership; amending ss.
16 627.6471 and 627.6472, F.S.; defining
17 "reasonable access," with regard to the
18 operation of preferred provider contracts and
19 exclusive provider organizations, to prohibit
20 such discrimination; requiring an exclusive
21 provider organization's plan of operation to
22 demonstrate such nondiscrimination; amending
23 ss. 641.21 and 641.405, F.S.; requiring the
24 application for a health maintenance
25 organization or prepaid health clinic
26 certificate of authority to be accompanied by a
27 plan of operation demonstrating such
28 nondiscrimination; amending s. 641.315, F.S.;
29 prohibiting health maintenance organizations
30 from engaging in such discrimination in its
31 provider contracts; creating s. 641.3923, F.S;

1 prohibiting a person, entity, or health
2 maintenance organization from engaging in such
3 discrimination in establishing its provider
4 panel; requiring health maintenance
5 organizations to demonstrate and ensure such
6 nondiscrimination; providing for complaints;
7 providing for hearings; providing for cease and
8 desist orders; providing for suspension or
9 revocation of a health maintenance
10 organization's certificate of authority;
11 providing an effective date.

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

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15 Section 1. Subsection (4) of section 381.0406, Florida
16 Statutes, is amended to read:

17 381.0406 Rural health networks.--

18 (4) Network membership shall be available to all
19 health care providers, provided that they render care to all
20 patients referred to them from other network members, comply
21 with network quality assurance and risk management
22 requirements, abide by the terms and conditions of network
23 provider agreements in paragraph (11)(c), and provide services
24 at a rate or price equal to the rate or price negotiated by
25 the network. Networks may not deny membership to an otherwise
26 qualified health care provider licensed as a health care
27 practitioner as defined in s. 455.01, who provides services
28 within the provider's lawful scope of practice, based solely
29 on the provider's category of licensure.

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31 Section 2. Subsections (12) and (13) of section
408.706, Florida Statutes, are renumbered as subsections (13)

1 and (14), respectively, and a new subsection (12) is added to
2 said section to read:

3 408.706 Community health purchasing alliances;
4 accountable health partnerships.--

5 (12)(a) An accountable health partnership, in
6 considering and acting on an application for provider
7 participation in its provider network, shall not deny the
8 application of an otherwise qualified health care provider
9 licensed as a health care practitioner as defined in s.
10 455.01, who provides services within the provider's lawful
11 scope of practice, based solely on the provider's category of
12 licensure.

13 (b) An accountable health partnership shall be
14 required to demonstrate and shall ensure that it does not
15 discriminate against, or exclude from participation as
16 providers in its provider network, health care providers
17 licensed as health care practitioners as defined in s. 455.01,
18 who provide services within their lawful scope of practice,
19 based solely on the provider's category of licensure.

20 (c) Compliance with this subsection shall be enforced
21 by filing a complaint with the agency against the accountable
22 health partnership network alleged to have violated this
23 subsection. Complaints may be filed by the agency, health
24 care providers, subscribers, or community health alliances, or
25 any other interested person. Upon the filing of a complaint,
26 the accountable health partnership that is the subject of the
27 complaint shall be required to demonstrate compliance with
28 this subsection. Where compliance with this subsection cannot
29 be demonstrated, the agency shall issue a cease and desist
30 order to the offending accountable health partnership.
31 Failure to comply with the cease and desist order shall result

1 in revocation of the designation of the accountable health
2 partnership.

3 Section 3. Paragraph (d) is added to subsection (1) of
4 section 627.6471, Florida Statutes, 1996 Supplement, to read:

5 627.6471 Contracts for reduced rates of payment;
6 limitations; coinsurance and deductibles.--

7 (1) As used in this section:

8 (d) "Reasonable access" means that the insurer does
9 not discriminate against providers licensed as health care
10 practitioners as defined in s. 455.01, who provide services
11 within their lawful scope of practice, based solely on the
12 provider's category of licensure.

13 Section 4. Subsection (1) of section 627.6472, Florida
14 Statutes, is amended, paragraph (f) of subsection (5) is
15 redesignated as paragraph (g), and a new paragraph (f) is
16 added to said subsection, to read:

17 627.6472 Exclusive provider organizations.--

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

19 (a)~~(e)~~ "Agency" means the Agency for Health Care
20 Administration.

21 (b)~~(a)~~ "Complaint" means any dissatisfaction expressed
22 by a policyholder concerning an insurer or its network
23 providers.

24 (c)~~(b)~~ "Emergency care" means medical services
25 provided after the sudden or unexpected onset of a medical
26 condition manifesting itself by acute symptoms, including
27 injury caused by an accident, which are severe enough that the
28 lack of immediate medical attention could reasonably be
29 expected to result in any of the following:

30 1. The patient's life or health would be placed in
31 serious jeopardy.

1 2. Vital bodily functions would be seriously impaired.
2 3. There would be serious and permanent dysfunction of
3 a bodily organ or part.

4 ~~(d)(c)~~ "Exclusive provider" means a provider of health
5 care, or a group of providers of health care, that has entered
6 into a written agreement with the insurer to provide benefits
7 under a health insurance policy issued under this section,
8 which agreement shall include any health care provider listed
9 in s. 627.419(3) and (4) and shall provide reasonable access
10 to such health care providers.

11 ~~(e)(d)~~ "Exclusive provider provision" means any
12 provision that conditions the payment of benefits, in whole or
13 in part, on the use of exclusive providers.

14 (f) "Grievance" means dissatisfaction with the
15 administration, claims practices, or provisions of services
16 concerning an insurer or its network providers, expressed in
17 writing by a policyholder under a health insurance policy or
18 certificate.

19 (g) "Reasonable access" means that the insurer does
20 not discriminate against providers licensed as health care
21 practitioners as defined in s. 455.01, who provide services
22 within their lawful scope of practice, based solely on the
23 provider's category of licensure.

24 ~~(h)(g)~~ "Service area" means the geographic area
25 approved by the agency within which an insurer is authorized
26 to offer a health insurance policy.

27 (5) The proposed plan of operation must include:

28 ~~(f)~~ Written information demonstrating that the insurer
29 does not discriminate against or exclude from participation
30 providers licensed as health care practioners as defined in s.
31 455.01, who provide services within their lawful scope of

1 practice, based solely on the provider's category of
2 licensure.

3 Section 5. Paragraph (j) of subsection (1) of section
4 641.21, Florida Statutes, 1996 Supplement, is redesignated as
5 paragraph (k), and a new paragraph (j) is added to said
6 subsection to read:

7 641.21 Application for certificate.--

8 (1) Before any entity may operate a health maintenance
9 organization, it shall obtain a certificate of authority from
10 the department. The department shall accept and shall begin
11 its review of an application for a certificate of authority
12 anytime after an organization has filed an application for a
13 health care provider certificate pursuant to part III of this
14 chapter. However, the department shall not issue a
15 certificate of authority to any applicant which does not
16 possess a valid health care provider certificate issued by the
17 agency. Each application for a certificate shall be on such
18 form as the department shall prescribe, shall be verified by
19 the oath of two officers of the corporation and properly
20 notarized, and shall be accompanied by the following:

21 (j) A plan of operation that demonstrates that the
22 health maintenance organization does not discriminate against
23 or exclude from participation providers licensed as health
24 care practitioners as defined in s. 455.01, who provide
25 services within their lawful scope of practice, based solely
26 on the provider's category of licensure.

27 Section 6. Subsection (8) is added to section 641.315,
28 Florida Statutes, 1996 Supplement, to read:

29 641.315 Provider contracts.--

30 (8) A health maintenance organization shall not refuse
31 to enter into a provider contract with an otherwise qualified

1 provider licensed as a health care practitioner as defined in
2 s. 455.01, who provides services within the provider's lawful
3 scope of practice, based solely on the provider's category of
4 licensure.

5 Section 7. Section 641.3923, Florida Statutes, is
6 created to read:

7 641.3923 Provider discrimination prohibited.--

8 (1) A person, entity, or health maintenance
9 organization, in considering and acting upon an application
10 for provider participation in its provider panel, may not deny
11 the application of an otherwise qualified health care provider
12 licensed as a health care practitioner as defined in s.
13 455.01, who provides services within the provider's lawful
14 scope of practice, based solely on the provider's category of
15 licensure.

16 (2) Each health maintenance organization is required
17 to demonstrate and must ensure that it does not discriminate
18 against, or exclude from participation as providers in its
19 provision of health care services, health care providers
20 licensed as health care practitioners as defined in s. 455.01,
21 who provide services within their lawful scope of practice,
22 based solely on the provider's category of licensure.

23 (3) Compliance with this section shall be enforced by
24 filing a complaint with the agency against the person, entity,
25 or health maintenance organization alleged to have violated
26 this section. Complaints may be filed by the agency, health
27 care providers, or subscribers, or any other interested
28 person. Upon the filing of a complaint, the person, entity,
29 or health maintenance organization that is the subject of the
30 complaint is required to demonstrate compliance with this
31 section. Where compliance with this section cannot be

1 demonstrated, the agency shall conduct or cause to be
2 conducted a hearing in accordance with chapter 120.

3 (4) After the hearing, if it is determined that a
4 violation of this section has occurred, the agency shall issue
5 an order requiring the violator to cease and desist from
6 engaging in discriminatory practices. Failure to comply with
7 the cease and desist order shall result in suspension or
8 revocation of the certificate of authority of the health
9 maintenance organization.

10 Section 8. Paragraph (h) is added to subsection (2) of
11 section 641.405, Florida Statutes, to read:

12 641.405 Application for certificate of authority to
13 operate prepaid health clinic.--

14 (2) Each application for a certificate of authority
15 shall be on such form as the department prescribes, and such
16 application shall be accompanied by:

17 (h) A plan of operation that demonstrates or ensures
18 that the applicant does not discriminate against or exclude
19 from participation providers licensed as health care
20 practitioners as defined in s. 455.01, who provide services
21 within their lawful scope of practice, based solely on the
22 provider's category of licensure.

23 Section 9. This act shall take effect October 1, 1997.
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HOUSE SUMMARY

Prohibits rural health networks, accountable health partnerships, preferred provider contracts, exclusive provider organizations, health maintenance organizations, prepaid health clinics, and other persons or entities from discriminating against health care providers who are licensed "health care practitioners" as defined in s. 455.01, F.S., for purposes of professional regulation, and who provide services within the provider's lawful scope of practice, based solely on the provider's category of licensure. Requires accountable health partnerships, exclusive provider organizations, health maintenance organizations, and prepaid health clinics to provide certain demonstration of such nondiscrimination. Provides for filing of complaints against an accountable health partnership or health maintenance organization with the Agency for Health Care Administration, and provides for issuance of ceases and desist orders by the agency. Provides for removal of designation as an accountable health partnership and suspension or revocation of a health maintenance organization certificate of authority for failure to comply with such orders.