

By the Committee on Health Care Standards & Regulatory
Reform and Representative Bloom

1 A bill to be entitled
2 An act relating to health care; amending s.
3 408.706, F.S.; prohibiting discrimination
4 against physicians, osteopaths, physician
5 assistants, chiropractors, optometrists,
6 nurses, occupational or physical therapists, or
7 psychologists, who apply for participation in
8 an accountable health partnership's provider
9 network, based solely on the statute under
10 which they are licensed; requiring accountable
11 health partnerships to demonstrate and ensure
12 such nondiscrimination; providing for
13 complaints; providing for cease and desist
14 orders; providing for revocation of designation
15 as an accountable health partnership; amending
16 ss. 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.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (12) and (13) of section
16 408.706, Florida Statutes, are renumbered as subsections (13)
17 and (14), respectively, and a new subsection (12) is added to
18 said section to read:

19 408.706 Community health purchasing alliances;
20 accountable health partnerships.--

21 (12)(a) An accountable health partnership, in
22 considering and acting on an application for provider
23 participation in its provider network, shall not deny the
24 application of an otherwise qualified health care provider
25 licensed under chapter 458, chapter 459, chapter 460, chapter
26 463, chapter 464, part III of chapter 468, chapter 486, or
27 chapter 490, who provides services within his or her lawful
28 scope of practice under said chapters, solely because the
29 health care provider is licensed under any of those chapters.

30 (b) An accountable health partnership shall be
31 required to demonstrate and shall ensure that it does not

1 discriminate against, or exclude from participation as
2 providers in its provider network, health care providers
3 licensed under chapter 458, chapter 459, chapter 460, chapter
4 463, chapter 464, part III of chapter 468, chapter 486, or
5 chapter 490, who provide services within their lawful scope of
6 practice under said chapters, solely because the health care
7 providers are licensed under any of those chapters.

8 (c) Compliance with this subsection shall be enforced
9 by filing a complaint with the agency against the accountable
10 health partnership network alleged to have violated this
11 subsection. Complaints may be filed by the agency, health
12 care providers, subscribers, or community health alliances, or
13 any other interested person. Upon the filing of a complaint,
14 the accountable health partnership that is the subject of the
15 complaint shall be required to demonstrate compliance with
16 this subsection. Where compliance with this subsection cannot
17 be demonstrated, the agency shall issue a cease and desist
18 order to the offending accountable health partnership.
19 Failure to comply with the cease and desist order shall result
20 in revocation of the designation of the accountable health
21 partnership.

22 Section 2. Paragraph (d) is added to subsection (1) of
23 section 627.6471, Florida Statutes, 1996 Supplement, to read:

24 627.6471 Contracts for reduced rates of payment;
25 limitations; coinsurance and deductibles.--

26 (1) As used in this section:

27 (d) "Reasonable access" means that the insurer does
28 not discriminate against otherwise qualified health care
29 providers licensed under chapter 458, chapter 459, chapter
30 460, chapter 463, chapter 464, part III of chapter 468,
31 chapter 486, or chapter 490, who provide services within their

1 lawful scope of practice under said chapters, solely because
2 the health care providers are licensed under any of those
3 chapters.

4 Section 3. Subsection (1) of section 627.6472, Florida
5 Statutes, is amended, paragraph (f) of subsection (5) is
6 redesignated as paragraph (g), and a new paragraph (f) is
7 added to said subsection, to read:

8 627.6472 Exclusive provider organizations.--

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

10 (a)~~(e)~~ "Agency" means the Agency for Health Care
11 Administration.

12 (b)~~(a)~~ "Complaint" means any dissatisfaction expressed
13 by a policyholder concerning an insurer or its network
14 providers.

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

21 1. The patient's life or health would be placed in
22 serious jeopardy.

23 2. Vital bodily functions would be seriously impaired.

24 3. There would be serious and permanent dysfunction of
25 a bodily organ or part.

26 (d)~~(c)~~ "Exclusive provider" means a provider of health
27 care, or a group of providers of health care, that has entered
28 into a written agreement with the insurer to provide benefits
29 under a health insurance policy issued under this section,
30 which agreement shall include any health care provider listed
31

1 in s. 627.419(3) and (4) and shall provide reasonable access
2 to such health care providers.

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

6 (f) "Grievance" means dissatisfaction with the
7 administration, claims practices, or provisions of services
8 concerning an insurer or its network providers, expressed in
9 writing by a policyholder under a health insurance policy or
10 certificate.

11 (g) "Reasonable access" means that the insurer does
12 not discriminate against otherwise qualified health care
13 providers licensed under chapter 458, chapter 459, chapter
14 460, chapter 463, chapter 464, part III of chapter 468,
15 chapter 486, or chapter 490, who provide services within their
16 lawful scope of practice under said chapters, solely because
17 the health care providers are licensed under any of those
18 chapters.

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

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

23 (f) Written information demonstrating that the insurer
24 does not discriminate against or exclude from participation an
25 otherwise qualified health care provider licensed under
26 chapter 458, chapter 459, chapter 460, chapter 463, chapter
27 464, part III of chapter 468, chapter 486, or chapter 490, who
28 provides services within his or her lawful scope of practice
29 under said chapters, solely because the health care provider
30 is licensed under any of those chapters.

31

1 Section 4. Paragraph (j) of subsection (1) of section
2 641.21, Florida Statutes, 1996 Supplement, is redesignated as
3 paragraph (k), and a new paragraph (j) is added to said
4 subsection to read:

5 641.21 Application for certificate.--

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

19 (j) A plan of operation that demonstrates that the
20 health maintenance organization does not discriminate against
21 or exclude from participation health care providers licensed
22 under chapter 458, chapter 459, chapter 460, chapter 463,
23 chapter 464, part III of chapter 468, chapter 486, or chapter
24 490, who provide services within their lawful scope of
25 practice under said chapters, solely because the health care
26 providers are licensed under any of those chapters.

27 Section 5. 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 health care provider licensed under chapter 458, chapter 459,
2 chapter 460, chapter 463, chapter 464, part III of chapter
3 468, chapter 486, or chapter 490, who provides services within
4 his or her lawful scope of practice under said chapters,
5 solely because the health care provider is licensed under any
6 of those chapters.

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

9 641.3923 Provider discrimination prohibited.--

10 (1) A person, entity, or health maintenance
11 organization, in considering and acting upon an application
12 for provider participation in its provider panel, may not deny
13 the application of an otherwise qualified health care provider
14 licensed under chapter 458, chapter 459, chapter 460, chapter
15 463, chapter 464, part III of chapter 468, chapter 486, or
16 chapter 490, who provides services within his or her lawful
17 scope of practice under said chapters, solely because the
18 health care provider is licensed under any of those chapters.

19 (2) Each health maintenance organization is required
20 to demonstrate and must ensure that it does not discriminate
21 against, or exclude from participation as health care
22 providers in its provision of health care services, health
23 care providers licensed under chapter 458, chapter 459,
24 chapter 460, chapter 463, chapter 464, part III of chapter
25 468, chapter 486, or chapter 490, who provide services within
26 their lawful scope of practice under said chapters, solely
27 because the health care providers are licensed under any of
28 those chapters.

29 (3) Compliance with this section shall be enforced by
30 filing a complaint with the agency against the person, entity,
31 or health maintenance organization alleged to have violated

1 this section. Complaints may be filed by the agency, health
2 care providers, or subscribers, or any other interested
3 person. Upon the filing of a complaint, the person, entity,
4 or health maintenance organization that is the subject of the
5 complaint is required to demonstrate compliance with this
6 section. Where compliance with this section cannot be
7 demonstrated, the agency shall conduct or cause to be
8 conducted a hearing in accordance with chapter 120.

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

16 Section 7. Paragraph (h) is added to subsection (2) of
17 section 641.405, Florida Statutes, to read:

18 641.405 Application for certificate of authority to
19 operate prepaid health clinic.--

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

23 (h) A plan of operation that demonstrates or ensures
24 that the applicant does not discriminate against or exclude
25 from participation health care providers licensed under
26 chapter 458, chapter 459, chapter 460, chapter 463, chapter
27 464, part III of chapter 468, chapter 486, or chapter 490, who
28 provide services within their lawful scope of practice under
29 said chapters, solely because the health care providers are
30 licensed under any of those chapters.

31 Section 8. This act shall take effect October 1, 1997.