

By Senator Sullivan

22-936-98

See HB 1087

1 A bill to be entitled
2 An act relating to health care; amending s.
3 641.315, F.S.; prohibiting health maintenance
4 organization provider contracts from
5 restricting the provider's ability to
6 communicate certain information to patients;
7 amending s. 641.3903, F.S.; providing that
8 certain actions by a health maintenance
9 organization against a provider based on the
10 provider's communication of certain information
11 to a patient are unfair or deceptive practices;
12 providing procedures required for the
13 termination or nonrenewal of a provider
14 contract by a managed care plan; requiring
15 certain written notice; providing for hearing
16 by a panel appointed by the managed care plan;
17 providing for recommendations to and decisions
18 of the managed care plan; specifying
19 timeframes; providing an effective date.

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

23 Section 1. Subsection (8) is added to section 641.315,
24 Florida Statutes, to read:

25 641.315 Provider contracts.--

26 (8) A contract between a health maintenance
27 organization and a health care services provider may not
28 contain any provision restricting the provider's ability to
29 communicate information to the provider's patient regarding
30 medical care or treatment options for the patient when the

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1 provider deems knowledge of such information by the patient to
2 be in the best interest of the patient.

3 Section 2. Subsection (14) is added to section
4 641.3903, Florida Statutes, to read:

5 641.3903 Unfair methods of competition and unfair or
6 deceptive acts or practices defined.--The following are
7 defined as unfair methods of competition and unfair or
8 deceptive acts or practices:

9 (14) ADVERSE ACTION AGAINST A PROVIDER.--Any of the
10 following actions by a health maintenance organization against
11 a provider on the basis that the provider communicated
12 information to the provider's patient regarding medical care
13 or treatment options for the patient when the provider deems
14 knowledge of such information by the patient to be in the best
15 interest of the patient:

16 (a) Refusal to contract with the provider;

17 (b) Termination of or refusal to renew a contract with
18 a provider;

19 (c) Refusal to compensate the provider for health care
20 services provided to subscribers; or

21 (d) Any other retaliatory action against the provider.

22 Section 3. Termination or nonrenewal of a health care
23 provider contract; notice; hearing.--A managed care plan may
24 not terminate or fail to renew a contract with a health care
25 provider unless the managed care plan provides the health care
26 provider with a written explanation of the reasons for the
27 proposed contract termination or nonrenewal and an opportunity
28 for a review or hearing as provided in this section, except in
29 cases involving imminent harm to patient health or a final
30 disciplinary action by the provider's licensing board or other

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1 governmental agency which impairs the health care provider's
2 ability to practice within the jurisdiction.

3 (1) The notice of the proposed contract termination or
4 nonrenewal provided by the managed care plan to the health
5 care provider must include:

6 (a) The reasons for the proposed action.

7 (b) Notice that the health care provider has the right
8 to request a hearing or review, at the provider's discretion,
9 before a panel appointed by the managed care plan.

10 (c) A time limit of not less than 30 days within which
11 a health care provider may request a hearing.

12 (d) A time limit for a hearing, which hearing must be
13 held not less than 30 days nor more than 60 days after the
14 date of receipt of the request for a hearing.

15 (2) If the health care provider requests a hearing,
16 the health care provider must be provided a written notice
17 that states:

18 (a) The place, time, and date of the hearing.

19 (b) The names of the witnesses, if any, expected to
20 testify at the hearing on behalf of the managed care plan.

21 (3) The hearing must be conducted by a panel composed
22 of three persons appointed by the managed care plan. At least
23 one person on the panel must be a clinical peer in the same
24 discipline and the same or similar specialty as the health
25 care provider under review. The hearing panel may consist of
26 more than three persons, if the number of clinical peers on
27 the panel constitutes one-third or more of the total
28 membership of the panel.

29 (4) The hearing panel must render a decision on the
30 proposed action in a timely manner, which decision must
31 include the panel's recommendation as to whether the provider

1 contract should be reinstated or renewed by the managed care
2 plan, provisionally reinstated or renewed subject to
3 conditions set forth by the managed care plan, terminated by
4 the managed care plan, or not renewed by the managed care
5 plan. The panel's decision or recommendation must be provided
6 in writing to the governing body of the managed care plan.

7 (5) The governing body of the managed care plan, after
8 considering the decision and recommendation of the panel, must
9 render its decision within 30 days after the issuance of the
10 panel's recommendation. The governing body's decision must
11 include reinstatement or renewal of the health care provider
12 contract by the managed care plan, provisional reinstatement
13 or renewal subject to conditions set forth by the managed care
14 plan, termination of the health care provider contract, or
15 nonrenewal of the health care provider contract.

16 (6) A decision by the governing body of the managed
17 care plan to terminate or nonrenew a contract with a health
18 care provider may not be effective earlier than 30 days after
19 the receipt by the health care provider of the governing
20 body's decision or earlier than 90 days after the health care
21 provider's receipt of the notice of termination or nonrenewal.

22 Section 4. This act shall take effect October 1, 1998.
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SENATE SUMMARY

Prohibits health maintenance organization provider contracts from restricting the provider's ability to communicate medical care or treatment information to a patient when such information is deemed by the provider to be in the patient's best interest. Provides that any retaliatory action by a health maintenance organization against a provider based on the provider's communication of such information to a patient, including refusing, terminating, or nonrenewing a contract and refusing compensation for health care services rendered to a subscriber, is an unfair method of competition and an unfair or deceptive act or practice. Requires managed care plans to provide a written explanation of the reasons for the proposed termination or nonrenewal of a provider contract. Specifies contents of such notice. Provides for the provider's right to review by a panel appointed by the managed care plan, and specifies requirements for composition of the panel. Provides for panel recommendations to and decisions by the governing body of the managed care plan. Specifies time limitations for requests for hearing, hearings, decisions by a managed care plan, and termination or nonrenewal of a provider contract.