SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 8, 1998 Revised: _____ _____ _____ _____

Subject: Managed Care Nondiscrimination

	Analyst	Staff Director	Reference	Action
1.	Deffenbaugh	Deffenbaugh	BI	Favorable/CS
2.			HC	
3.				
4.				
5.				

I. Summary:

The Committee Substitute for Senate Bill 2146 prohibits health maintenance organizations and insurers issuing polices through exclusive provider organizations from discriminating with respect to participation as to any advanced registered nurse practitioner licensed and certified pursuant to state law, who is acting within the scope of such license or certification, solely on the basis of such licensure or certification. This would not prohibit any HMO or insurer 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.

This bill substantially amends section 627.6472 of the Florida Statutes. The bill creates section 641.3923 of the Florida Statutes.

II. Present Situation:

Health maintenance organizations (HMOs) provide comprehensive health care services directly through health care providers who are either employees of the HMO or under contract with the HMO. HMOs must provide physician services by physicians licensed under chapter 458 (allopathic), 459 (osteopathic), 460 (chiropractic), and 461 (podiatric).[1] As a condition of a HMO obtaining its provider certificate from the Agency for Health Care Administration, the HMO must have an established network of health care providers which is capable of providing the health care services that are to be offered by the HMO.[2] Specific benefit requirements for HMO contracts

[1] Section 641.18(13), F.S.

[2] Sections 641.49 and 641.495, F.S.

include optional coverage for nurse midwives and midwives licensed pursuant to chapter 4 67, and the services of birth centers licensed pursuant to ss. 383.30-383.335, F.S., if such services are available within the service area.[3] Also coverage must be provided for ophthalmologists licensed under chapter 458 or 459, and coverage must be offered for optometrists licensed under chapter 463, F.S.[4] HMO contracts must offer to the subscriber, if requested and available, the services of a certified registered nurse anesthetist licensed pursuant to chapter 464, F.S.[5] HMOs may not discriminate against or fail to contract with a hospital, based solely on the fact that the hospital medical staff is comprised of physicians licensed under chapter 459 (osteopaths) and coverage for osteopathic hospitals must be provided as an option, under certain conditions.[6] HMOs that offer dermatological services must provide direct patient access to a dermatologist, under certain conditions.[7]

Insurers issuing health insurance policies in Florida may issue coverage that conditions the payment of benefits on the use of exclusive health care providers (referred to as exclusive provider organization, or EPO policies), as authorized by s. 627.6472, F.S. Current law requires that the list of exclusive providers must include optometrists, podiatrists, and chiropractors, and must provide reasonable access to such health care providers.[8] If psychotherapeutic services are covered by the EPO policy, the insurer must provide eligibility criteria for all groups of health care providers licensed under chapter 458 (physicians), 459 (osteopaths), 490 (psychologists), or 491 (mental health counselors), which include psychotherapy within the scope of their practice as provided by law, or for any person who is certified as an advanced registered nurse practitioner in psychiatric mental health under s. 464.012, F.S. The insurer may not discriminate against a health care provider by excluding such practitioners from its provider network solely on the basis of the practitioner's license.[9] EPO policies that offer dermatological services must provide direct patient access to a dermatologist, under certain conditions.[10] Health insurers' EPO policies must also include or offer all benefits that generally apply to individual or group policies, as applicable, which include requirements to provide coverage for midwives, nurse midwives, birthing centers, physician assistants (under the supervision of a physician), and, if prescribed by a physician, massage therapists and certified acupuncturists.[11]

The federal Balanced Budget Act of 1997 (Public Law 105-33) authorizes a greater variety of managed care and fee-for-service plans for providing benefits to Medicare enrollees, including a

[3] Section 641.31(18), F.S.

[4] Section 641.31(19) and (20), F.S.

[5] Section 641.31(21), F.S.

[6] Section 641.31(24) and (28), F.S.

[7] Section 641.31(33), F.S.

[8] Section 627.6472(1)(c), F.S.

[9] Section 627.6472(15), F.S.

[10] Section 627.6472(16), F.S.

[11] Sections 627.6574, 627.419(6), 627.6618, 627.6619, F.S.

new Medicare Choice Program. The Medicare Choice Program provides benefits through coordinated care plans, such as preferred provider organizations, health maintenance organizations or provider service organizations or through a medical savings account (MSA)/high deductible plan. The Act prohibits a Medicare Choice organization from discriminating with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable state law, solely on the basis of such license or certification. This law does not 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.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.6472, F.S., related to exclusive provider policies issued by health insurers. The bill prohibits an exclusive provider organization (i.e., an insurer issuing an EPO policy) from discriminating with respect to participation as to any advanced registered nurse practitioner licensed and certified pursuant to s. 464.012, F.S. who is acting within the scope of the provider's license or certification, solely on the basis of such license or certification. This law does not 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 to prohibit an HMO from discriminating with respect to participation as to any advanced registered nurse practitioner to the same extent as described in Section 1, above, for health insurers issuing exclusive provider organization policies.

Section 3. Effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.