

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 16, 1998 Revised: _____

Subject: Managed Care Nondiscrimination; Advanced Registered Nurse Practitioners

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	<u>Carter</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 2146 prohibits health maintenance organizations (HMO) and insurers issuing policies 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 amends section 627.6472, and creates section 641.3923, Florida Statutes.

II. Present Situation:

Health maintenance organizations provide comprehensive health care services directly through health care providers who are either employees of the HMO or under contract with the HMO. Health maintenance organizations must provide physician services by physicians licensed under ch. 458, F.S., allopathic medicine; ch. 459, F.S., osteopathic medicine; ch. 460, F.S., chiropractic practice; and ch. 461, F.S., podiatric medicine.¹ As a condition of an HMO obtaining its health care 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 include

¹ Section 641.18(13), F.S.

² Sections 641.49 and 641.495, F.S.

optional coverage for nurse midwives and midwives licensed pursuant to ch. 467, F.S., 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 ch. 458, F.S., or ch. 459, F.S., and coverage must be offered for optometrists licensed under ch. 463, F.S.⁴ Health maintenance organization contracts must offer to the subscriber, if requested and available, the services of a certified registered nurse anesthetist licensed pursuant to ch. 464, F.S.⁵ Health maintenance organizations may not discriminate against or fail to contract with a hospital, based solely on the fact that the hospital medical staff is comprised of osteopathic physicians licensed under ch. 459, F.S., and coverage for osteopathic hospitals must be provided as an option, under certain conditions.⁶ Health maintenance organizations 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 ch. 458, F.S., allopathic physicians; ch. 459, F.S., osteopathic physicians; ch. 490, F.S., psychologists; or ch. 491, F.S., 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 providers from its provider network solely on the basis of the provider's license.⁹ Exclusive provider organization 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

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.

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 new Medicare Choice Program. The Medicare Choice Program provides benefits through coordinated care plans, such as preferred provider organizations, HMOs 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., relating to exclusive provider policies issued by health insurers. The bill prohibits an EPO (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, F.S., 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 EPO policies.

Section 3. Provides for the bill to take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, section 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, subsections 24(a) and (b) of the State Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, subsection 19(f) of the State Constitution.

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.