

By Representative Lacasa

1                                   A bill to be entitled  
2           An act relating to health care services;  
3           amending s. 408.7056, F.S.; requiring certain  
4           physician members on Statewide Provider and  
5           Subscriber Assistance Program panels; amending  
6           ss. 408.706 and 627.419, F.S., and creating s.  
7           641.3151, F.S.; providing for patient choice in  
8           the selection of a physician under any plan  
9           offered through a health maintenance  
10          organization, managed care provider  
11          organization, prepaid health plan, or  
12          accountable health partnership, or under any  
13          health insurance policy, plan, or contract,  
14          offered in the state; prohibiting certain  
15          denial of payment for physician services;  
16          specifying terms of reimbursement for services;  
17          providing liability of subscribers for certain  
18          charges; providing penalties; deleting  
19          provisions relating to community health  
20          purchasing alliance district health care  
21          provider participation; amending s. 641.315,  
22          F.S.; conforming provisions relating to  
23          liability of subscribers under a health  
24          maintenance organization provider contract;  
25          amending s. 641.495, F.S., relating to  
26          requirements for issuance and maintenance of a  
27          health maintenance organization certificate of  
28          authority; requiring certain documentation of  
29          adverse determinations; providing an effective  
30          date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsection (11) of section 408.7056,  
4 Florida Statutes, 1998 Supplement, is amended to read:

5 408.7056 Statewide Provider and Subscriber Assistance  
6 Program.--

7 (11) The panel shall consist of members employed by  
8 the agency and members employed by the department, chosen by  
9 their respective agencies. At least one-third of the members  
10 of the panel shall be physicians licensed under chapter 458 or  
11 chapter 459. If the grievance involves an adverse  
12 determination as defined in s. 641.47, at least one of the  
13 physicians on the panel shall be in the same specialty as that  
14 forming the subject of the grievance or have training and  
15 experience in the procedure in question.The agency may  
16 contract with a medical director and a primary care physician  
17 who shall provide additional technical expertise to the panel.  
18 The medical director shall be selected from a health  
19 maintenance organization with a current certificate of  
20 authority to operate in Florida.

21 Section 2. Subsection (11) of section 408.706, Florida  
22 Statutes, is amended to read:

23 408.706 Community health purchasing alliances;  
24 accountable health partnerships.--

25 (11) Notwithstanding any other provision of law to the  
26 contrary, any subscriber to a health plan offered by or  
27 through a health maintenance organization, managed care  
28 provider organization, prepaid health plan, or accountable  
29 health partnership is entitled, at all times, to free, full,  
30 and absolute choice in the selection of a physician licensed  
31 under chapter 458 or chapter 459. It is expressly forbidden

1 for any health plan to contain any provision which would  
2 require or coerce a subscriber to the plan to use any  
3 physician other than the physician selected by the subscriber.  
4 ~~The ability to recruit and retain alliance district health~~  
5 ~~care providers in its provider network. For provider networks~~  
6 ~~initially formed in an alliance district after July 1, 1993,~~  
7 ~~an accountable health partnership shall make offers as to~~  
8 ~~provider participation in its provider network to relevant~~  
9 ~~alliance district health care providers for at least 60~~  
10 ~~percent of the available provider positions. A provider who is~~  
11 ~~made an offer may participate in an accountable health~~  
12 ~~partnership as long as the provider abides by the terms and~~  
13 ~~conditions of the provider network contract, provides services~~  
14 ~~at a rate or price equal to the rate or price negotiated by~~  
15 ~~the accountable health partnership, and meets all of the~~  
16 ~~accountable health partnership's qualifications for~~  
17 ~~participation in its provider networks including, but not~~  
18 ~~limited to, network adequacy criteria. For purposes of this~~  
19 ~~subsection, "alliance district health care provider" means a~~  
20 ~~health care provider who is licensed under chapter 458,~~  
21 ~~chapter 459, chapter 460, chapter 461, chapter 464, or chapter~~  
22 ~~465 who has practiced in Florida for more than 1 year within~~  
23 ~~the alliance district served by the accountable health~~  
24 ~~partnership.~~

25 (a) A health maintenance organization, managed care  
26 provider organization, prepaid health plan, or accountable  
27 health partnership may not deny payment to a physician  
28 licensed under chapter 458 or chapter 459 who has rendered  
29 covered services to a subscriber, based solely on the fact  
30 that the physician has not entered into a provider contract  
31 with the organization, plan, or partnership, as long as:

1           1. That physician meets the health maintenance  
2 organization, managed care provider organization, prepaid  
3 health plan, or accountable health partnership's eligibility  
4 criteria; and

5           2. Under accepted medical standards, the covered  
6 services provided by the physician were medically necessary  
7 such that the organization, plan, or partnership would be  
8 required to pay for the services had they been performed by a  
9 contracted provider.

10           (b) Reimbursement by a health maintenance  
11 organization, managed care provider organization, prepaid  
12 health plan, or accountable health partnership for services by  
13 a physician who does not have a contract with the  
14 organization, plan, or partnership shall be the lesser of:

15           1. Eighty percent of the physician's charges;  
16           2. Eighty percent of the highest rate paid by the  
17 organization, plan, or partnership to contracted physicians  
18 for the procedure performed; or

19           3. The charge mutually agreed to by the organization,  
20 plan, or partnership and the physician within 30 days after  
21 the submittal of the claim.

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23 The subscriber shall be liable for all physician charges not  
24 covered by the health maintenance organization, managed care  
25 provider organization, prepaid health plan, or accountable  
26 health partnership pursuant to this paragraph.

27           (c) A health maintenance organization, managed care  
28 provider organization, prepaid health plan, or accountable  
29 health partnership that violates the provisions of this  
30 section is subject to a civil fine in the amount of:

31           1. Up to \$25,000 for each violation; or

1           2. If the Director of Health Care Administration  
2 determines that the entity has engaged in a pattern of  
3 violations of this subsection, up to \$100,000 for each  
4 violation.

5           Section 3. Subsection (9) is added to section 627.419,  
6 Florida Statutes, 1998 Supplement, to read:

7           627.419 Construction of policies.--

8           (9)(a) Notwithstanding any other provision of law to  
9 the contrary, any person covered under any health insurance  
10 policy, health care services plan, or other contract which  
11 provides for payment for medical expense benefits or  
12 procedures is entitled, at all times, to free, full, and  
13 absolute choice in the selection of a physician licensed under  
14 chapter 458 or chapter 459. It is expressly forbidden for any  
15 health plan to contain any provision which would require or  
16 coerce a person covered by the plan to use any provider other  
17 than the provider selected by the subscriber. A health plan  
18 may not deny payment to a physician licensed under chapter 458  
19 or chapter 459 who has rendered covered services to an  
20 insured, based solely on the fact that the physician has not  
21 entered into a provider contract with the plan, as long as:

22           1. That physician meets the plan's eligibility  
23 criteria; and

24           2. Under accepted medical standards, the covered  
25 services provided by the physician were medically necessary  
26 such that the organization would be required to pay for the  
27 services had they been performed by a contracted physician.

28           (b) Reimbursement for services pursuant to this  
29 subsection by a physician who does not have a contract with  
30 the health plan shall be the lesser of:

31           1. Eighty percent of the physician's charges;

1           2. Eighty percent of the highest rate paid by the  
2 organization to contracted physicians for the procedure  
3 performed; or

4           3. The charge mutually agreed to by the organization  
5 and the physician within 30 days after the submittal of the  
6 claim.

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8 The subscriber shall be liable for all physician charges not  
9 covered by the health plan pursuant to this paragraph.

10           (c) The provider of any health insurance policy,  
11 health care services plan, or other contract that violates the  
12 provisions of this subsection is subject to a civil fine in  
13 the amount of:

14           1. Up to \$25,000 for each violation; or

15           2. If the Director of Health Care Administration  
16 determines that the entity has engaged in a pattern of  
17 violations of this subsection, up to \$100,000 for each  
18 violation.

19           Section 4. Subsections (2) and (3) of section 641.315,  
20 Florida Statutes, are amended to read:

21           641.315 Provider contracts.--

22           (2) No subscriber of an HMO shall be liable to any  
23 provider of health care services who is a contracted provider  
24 of that HMO for any services covered by the HMO.

25           (3) No provider of services who is a contracted  
26 provider of an HMO, or any representative of such provider,  
27 shall collect or attempt to collect from an HMO subscriber any  
28 money for services covered by an HMO and no contracted  
29 provider or representative of such provider may maintain any  
30 action at law against a subscriber of an HMO to collect money  
31 owed to such provider by an HMO.

1           Section 5. Section 641.3151, Florida Statutes, is  
2 created to read:

3           641.3151 Subscriber freedom of choice.--

4           (1) Notwithstanding any other provision of law to the  
5 contrary, any subscriber to a health plan offered by or  
6 through a health maintenance organization or managed care  
7 provider organization is entitled, at all times, to free,  
8 full, and absolute choice in the selection of a physician  
9 licensed under chapter 458 or chapter 459. It is expressly  
10 forbidden for any health plan to contain any provision which  
11 would require or coerce a subscriber to the plan to use any  
12 physician other than the physician selected by the subscriber.  
13 A health maintenance organization or managed care provider  
14 organization may not deny payment to a physician licensed  
15 under chapter 458 or chapter 459 who has rendered covered  
16 services to a subscriber, based solely on the fact that the  
17 physician has not entered into a provider contract with the  
18 organization, as long as:

19           (a) That physician meets the organization's  
20 eligibility criteria; and

21           (b) Under accepted medical standards, the covered  
22 services provided by the physician were medically necessary  
23 such that the organization would be required to pay for the  
24 services had they been performed by a contracted physician.

25           (2) Reimbursement for services pursuant to this  
26 section by a physician who does not have a contract with the  
27 health maintenance organization or managed care provider  
28 organization shall be the lesser of:

29           (a) Eighty percent of the physician's charges;  
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1       (b) Eighty percent of the highest rate paid by the  
2 organization to contracted physicians for the procedure  
3 performed; or

4       (c) The charge mutually agreed to by the organization  
5 and the physician within 30 days after the submittal of the  
6 claim.

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8 The subscriber shall be liable for all physician charges not  
9 covered by the health maintenance organization or managed care  
10 provider organization pursuant to this subsection.

11       (3) A health maintenance organization or managed care  
12 provider organization that violates the provisions of this  
13 section is subject to a civil fine in the amount of:

14       (a) Up to \$25,000 for each violation; or

15       (b) If the Director of Health Care Administration  
16 determines that the entity has engaged in a pattern of  
17 violations of this section, up to \$100,000 for each violation.

18       Section 6. Subsection (11) of section 641.495, Florida  
19 Statutes, 1998 Supplement, is amended to read:

20       641.495 Requirements for issuance and maintenance of  
21 certificate.--

22       (11) The organization shall designate a medical  
23 director who is a physician licensed under chapter 458 or  
24 chapter 459. For every adverse determination made by the  
25 organization regarding any subscriber, the medical director is  
26 required to document and sign the subscriber's medical records  
27 setting forth the facts regarding the organization's adverse  
28 determination and the rationale for such decision. The  
29 rendering of an adverse determination by a medical director  
30 shall constitute the practice of medicine as defined in s.  
31 458.305.



1           Section 7. This act shall take effect October 1, 1999.

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HOUSE SUMMARY

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6           Requires at least one-third of Statewide Provider and  
7           Subscriber Assistance Program panel members to be  
8           licensed physicians. Requires at least one physician  
9           member to have training and experience in the subject  
10          area of a grievance involving an adverse determination.  
11          Provides for patient choice in the selection of a  
12          physician under any plan offered through a health  
13          maintenance organization, management care provider  
14          organization, prepaid health plan, or accountable health  
15          partnership, or under any health insurance policy, plan,  
16          or contract, offered in the state. Prohibits denial of  
17          payment for physician services based solely on the fact  
18          that the physician has not entered into a provider  
19          contract with the organization, plan, or partnership.  
20          Specifies terms for reimbursement for services. Provides  
21          the subscriber's liability for noncovered physician  
22          charges. Provides for fines of up to \$25,000 per  
23          violation, or up to \$100,000 per violation where a  
24          pattern of violations is involved as determined by the  
25          Agency for Health Care Administration. Requires certain  
26          documentation of adverse determinations as a condition  
27          for issuance and maintenance of a health maintenance  
28          organization's certificate of authority.

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