

By the Committee on Banking and Insurance; and Senator Geller

311-2169-00

1 A bill to be entitled
 2 An act relating to health maintenance
 3 organizations; amending s. 641.201, F.S.;
 4 clarifying applicability of the Florida
 5 Insurance Code to health maintenance
 6 organizations; amending s. 641.234, F.S.;
 7 providing conditions under which the Department
 8 of Insurance may order a health maintenance
 9 organization to cancel a contract; amending s.
 10 641.27, F.S.; providing for payment by a health
 11 maintenance organization of fees to outside
 12 examiners appointed by the Department of
 13 Insurance; creating s. 641.226, F.S.; providing
 14 for application of federal solvency
 15 requirements to provider-sponsored
 16 organizations; creating s. 641.39, F.S.;
 17 prohibiting the solicitation or acceptance of
 18 contracts by insolvent or impaired health
 19 maintenance organizations; providing a criminal
 20 penalty; creating s. 641.2011, F.S.; providing
 21 that part IV of ch. 628, F.S., applies to
 22 health maintenance organizations; providing an
 23 effective date.

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

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 27 Section 1. Section 641.201, Florida Statutes, is
 28 amended to read:

29 641.201 Applicability of other laws.--Except as
 30 provided in this part, health maintenance organizations shall
 31 be governed by the provisions of this part and part III of

1 this chapter and shall be exempt from all other provisions of
2 the Florida Insurance Code except those provisions of the
3 Florida Insurance Code that are explicitly made applicable to
4 health maintenance organizations.

5 Section 2. Section 641.234, Florida Statutes, is
6 amended to read:

7 641.234 Administrative, provider, and management
8 contracts.--

9 (1) The department may require a health maintenance
10 organization to submit any contract for administrative
11 services, contract with a provider other than an individual
12 physician, contract for management services, and contract with
13 an affiliated entity to the department.

14 (2) After review of a contract the department may
15 order the health maintenance organization to cancel the
16 contract in accordance with the terms of the contract and
17 applicable law if it determines:

18 (a) That the fees to be paid by the health maintenance
19 organization under the contract are so unreasonably high as
20 compared with similar contracts entered into by the health
21 maintenance organization or as compared with similar contracts
22 entered into by other health maintenance organizations in
23 similar circumstances that the contract is detrimental to the
24 subscribers, stockholders, investors, or creditors of the
25 health maintenance organization; or-

26 (b) That the contract is with an entity that is not
27 licensed under state statutes, if such license is required, or
28 is not in good standing with the applicable regulatory agency.

29 (3) All contracts for administrative services,
30 management services, provider services other than individual
31 physician contracts, and with affiliated entities entered into

1 or renewed by a health maintenance organization on or after
2 October 1, 1988, shall contain a provision that the contract
3 shall be canceled upon issuance of an order by the department
4 pursuant to this section.

5 Section 3. Subsection (2) of section 641.27, Florida
6 Statutes, is amended to read:

7 641.27 Examination by the department.--

8 (2) The department may contract, at reasonable fees
9 for work performed, with qualified, impartial outside sources
10 to perform audits or examinations or portions thereof
11 pertaining to the qualification of an entity for issuance of a
12 certificate of authority or to determine continued compliance
13 with the requirements of this part, in which case the payment
14 must be made, directly to the contracted examiner by the
15 health maintenance organization examined, in accordance with
16 the rates and terms agreed to by the department and the
17 examiner. Any contracted assistance shall be under the direct
18 supervision of the department. The results of any contracted
19 assistance shall be subject to the review of, and approval,
20 disapproval, or modification by, the department.

21 Section 4. Section 641.226, Florida Statutes, is
22 created to read:

23 641.226 Application of federal solvency requirements
24 to provider-sponsored organizations.--The solvency
25 requirements of sections 1855 and 1856 of the Balanced Budget
26 Act of 1997 and rules adopted by the Secretary of the United
27 States Department of Health and Human Services apply to a
28 health maintenance organization that is a provider-sponsored
29 organization rather than the solvency requirements of this
30 part. However, if the provider-sponsored organization does not
31 meet the solvency requirements of this part, the organization

1 is limited to the issuance of Medicare+Choice plans to
2 eligible individuals. For the purposes of this section, the
3 terms "Medicare+Choice plans," "provider-sponsored
4 organizations," and "solvency requirements" have the same
5 meaning as defined in the federal act and federal rules and
6 regulations.

7 Section 5. Section 641.39, Florida Statutes, is
8 created to read:

9 641.39 Soliciting or accepting new or renewal health
10 maintenance contracts by insolvent or impaired health
11 maintenance organization prohibited; penalty.--

12 (1) Whether or not delinquency proceedings as to a
13 health maintenance organization have been or are to be
14 initiated, a director or officer of a health maintenance
15 organization, except with the written permission of the
16 Department of Insurance, may not authorize or permit the
17 health maintenance organization to solicit or accept new or
18 renewal health maintenance contracts or provider contracts in
19 this state after the director or officer knew, or reasonably
20 should have known, that the health maintenance organization
21 was insolvent or impaired. As used in this section, the term
22 "impaired" means that the health maintenance organization does
23 not meet the requirements of s. 641.225.

24 (2) Any director or officer who violates this section
25 is guilty of a felony of the third degree, punishable as
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27 Section 6. Section 641.2011, Florida Statutes, is
28 created to read:

29 641.2011 Insurance holding companies.--Part IV of
30 chapter 628 applies to health maintenance organizations
31 licensed under part I of chapter 641.

1 Section 7. This act shall take effect July 1, 2000.

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3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 Senate Bill 1534

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6 Removes the provision specifying that health maintenance
7 organizations (HMOs) remain ultimately liable to providers
8 regardless of the terms of the health care risk contract.

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8 Deletes the requirements that HMOs utilize independent
9 actuaries and reserve or otherwise secure obligations under
10 health care risk contracts.

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10 Removes the requirement that HMOs annually report a summary of
11 all contracts with entities which have assumed more than 1
12 percent of the health care risk of the HMO. Deletes the
13 provision which repealed the law requiring HMOs to annually
14 report contracts with entities that assumed more than 10
15 percent of such risk of the HMO.

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13 Deletes the provision allowing subscribers, providers and HMOs
14 to request a rehearing of a grievance before the Statewide
15 Provider and Subscriber Assistance Panel.

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15 Removes the provision authorizing HMO subscribers and
16 providers to request a summary administrative hearing and
17 removes the provision assessing costs and attorney's fees if
18 an HMO subscriber and provider brings a frivolous
19 administrative action.

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