

By Representative Negron

1                                   A bill to be entitled  
2           An act relating to health maintenance  
3           organization contracts with health care  
4           providers; creating s. 408.7058, F.S.;  
5           providing definitions; requiring the Agency for  
6           Health Care Administration to establish a  
7           statewide health care provider and health  
8           maintenance organization qualification dispute  
9           resolution program; providing criteria and  
10          requirements; requiring the agency to contract  
11          with a resolution organization for certain  
12          purposes; requiring the agency to establish  
13          procedures for the resolution organization's  
14          consideration of qualification disputes;  
15          providing for final orders by the agency;  
16          providing for payment of review costs under  
17          certain circumstances; providing a penalty  
18          under certain circumstances; authorizing the  
19          agency to adopt rules; amending s. 641.315,  
20          F.S.; deleting obsolete provisions relating to  
21          provider contracts; revising provisions  
22          providing for termination of a provider  
23          contract by a health maintenance organization;  
24          providing criteria, requirements, and  
25          limitations; specifying notice requirements;  
26          amending s. 627.6474, F.S.; specifying  
27          requirements for certain contracts; prohibiting  
28          certain insurers from refusing to enter into or  
29          renew contracts with certain health care  
30          providers; specifying requirements and  
31          limitations for terminating certain contracts;

1 specifying notice requirements; providing  
2 application; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 408.7058, Florida Statutes, is  
7 created to read:

8 408.7058 Statewide health care provider and health  
9 maintenance organization qualification dispute resolution  
10 program.--

11 (1) As used in this section:

12 (a) "Agency" means the Agency for Health Care  
13 Administration.

14 (b) "Health care provider" or "provider" means any  
15 health care practitioner as defined in s. 456.001.

16 (c) "Health insurer" or "insurer" means an entity  
17 licensed under chapter 627.

18 (d) "Health maintenance organization" or  
19 "organization" means an organization certified under part I of  
20 chapter 641.

21 (e) "Qualification dispute" means any dispute between  
22 an organization and a provider as to whether the provider  
23 meets the organization's written qualification requirements  
24 provided to the provider pursuant to s. 641.315(10).

25 (f) "Resolution organization" means a qualified  
26 independent third-party claim dispute resolution entity  
27 selected by and contracted with the agency.

28 (2)(a) The agency shall establish a program by January  
29 1, 2003, to provide assistance to contracted and noncontracted  
30 providers for resolution of qualification disputes that are  
31 not resolved by a provider and an organization. The agency

1 shall contract with a resolution organization to timely review  
2 and consider qualification disputes submitted by providers and  
3 recommend to the agency an appropriate resolution of those  
4 disputes.

5 (b) The resolution organization shall review  
6 qualification disputes filed by contracted and noncontracted  
7 providers unless the dispute is the basis for an action  
8 pending in state or federal court.

9 (3) The agency shall adopt rules to establish a  
10 process to be used by the resolution organization in  
11 considering qualification disputes submitted by a provider  
12 which must include the issuance by the resolution organization  
13 of a written recommendation, supported by findings of fact, to  
14 the agency within 60 days after receipt of the dispute  
15 submission. The written recommendation may include a  
16 recommendation that a contract between the provider and the  
17 organization not be terminated by the organization.

18 (4) Within 30 days after receipt of the recommendation  
19 of the resolution organization, the agency shall adopt the  
20 recommendation as a final order.

21 (5) The entity that does not prevail in the agency's  
22 order shall pay a review cost to the review organization, as  
23 determined by agency rule. If the nonprevailing party fails to  
24 pay the ordered review cost within 35 days after the agency's  
25 order, the nonpaying party is subject to a penalty of not more  
26 than \$500 per day until the penalty is paid.

27 (6) The agency may adopt rules to administer this  
28 section.

29 Section 2. Section 641.315, Florida Statutes, is  
30 amended to read:

31 641.315 Provider contracts.--

1           (1) Each contract between a health maintenance  
2 organization and a provider of health care services must be in  
3 writing and must contain a provision that the subscriber is  
4 not liable to the provider for any services for which the  
5 health maintenance organization is liable as specified in s.  
6 641.3154.

7           ~~(2)(a) For All provider contracts executed after~~  
8 ~~October 1, 1991, and within 180 days after October 1, 1991,~~  
9 ~~for contracts in existence as of October 1, 1991:~~

10           ~~1. The contracts~~ must require the provider to give 60  
11 days' advance written notice to the health maintenance  
12 organization and the department before canceling the contract  
13 with the health maintenance organization for any reason~~and~~

14           ~~2. The contract~~ must also provide that nonpayment for  
15 goods or services rendered by the provider to the health  
16 maintenance organization is not a valid reason for avoiding  
17 the 60-day advance notice of cancellation.

18           ~~(b) All provider contracts must provide that the~~  
19 ~~health maintenance organization will provide 60 days' advance~~  
20 ~~written notice to the provider and the department before~~  
21 ~~canceling, without cause, the contract with the provider,~~  
22 ~~except in a case in which a patient's health is subject to~~  
23 ~~imminent danger or a physician's ability to practice medicine~~  
24 ~~is effectively impaired by an action by the Board of Medicine~~  
25 ~~or other governmental agency.~~

26           ~~(3) Upon receipt by the health maintenance~~  
27 ~~organization of a 60-day cancellation notice, the health~~  
28 ~~maintenance organization may, if requested by the provider,~~  
29 ~~terminate the contract in less than 60 days if the health~~  
30 ~~maintenance organization is not financially impaired or~~  
31 ~~insolvent.~~

1           (3)~~(4)~~ Whenever a contract exists between a health  
2 maintenance organization and a provider, the health  
3 maintenance organization shall disclose to the provider:

4           (a) The mailing address or electronic address where  
5 claims should be sent for processing;

6           (b) The telephone number that a provider may call to  
7 have questions and concerns regarding claims addressed; and

8           (c) The address of any separate claims-processing  
9 centers for specific types of services.

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11 A health maintenance organization shall provide to its  
12 contracted providers no less than 30 calendar days' prior  
13 written notice of any changes in the information required in  
14 this subsection.

15           (4)~~(5)~~ A contract between a health maintenance  
16 organization and a provider of health care services shall not  
17 contain any provision restricting the provider's ability to  
18 communicate information to the provider's patient regarding  
19 medical care or treatment options for the patient when the  
20 provider deems knowledge of such information by the patient to  
21 be in the best interest of the health of the patient.

22           (5)~~(6)~~ A contract between a health maintenance  
23 organization and a provider of health care services may not  
24 contain any provision that in any way prohibits or restricts:

25           (a) The health care provider from entering into a  
26 commercial contract with any other health maintenance  
27 organization; or

28           (b) The health maintenance organization from entering  
29 into a commercial contract with any other health care  
30 provider.

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1           ~~(6)(a)(7)~~ A health maintenance organization or health  
2 care provider may not terminate a contract with a health care  
3 provider or health maintenance organization unless the party  
4 terminating the contract provides the terminated party with a  
5 written reason for the proposed contract termination, ~~which~~  
6 ~~may include termination for business reasons of the~~  
7 ~~terminating party. The reason provided in the notice required~~  
8 ~~in this section or any other information relating to the~~  
9 ~~reason for termination does not create any new administrative~~  
10 ~~or civil action and may not be used as substantive evidence in~~  
11 ~~any such action, but may be used for impeachment purposes. As~~  
12 ~~used in this subsection, the term "health care provider" means~~  
13 ~~a physician licensed under chapter 458, chapter 459, chapter~~  
14 ~~460, or chapter 461, or a dentist licensed under chapter 466.~~

15           (b) A health maintenance organization may terminate a  
16 contract with a health care provider only if the provider  
17 fails to comply with the organization's written terms and  
18 conditions provided to the provider pursuant to subsection  
19 (10). If an organization proposes to terminate a contract with  
20 a provider, the organization shall provide the provider with  
21 60 days' advance written notice of its intent to terminate the  
22 provider's contract. This paragraph does not apply in cases  
23 involving imminent harm to patient health or a final  
24 disciplinary action by the provider's licensing board or other  
25 governmental agency which impairs the provider's ability to  
26 practice within the jurisdiction.

27           (c) If a health maintenance organization proposes to  
28 terminate a contract of a health care provider pursuant to  
29 this subsection, the organization shall not notify the  
30 provider's patients of the proposed termination until the  
31 effective date of the termination or the conclusion of the

1 review or hearing provided in this section, whichever occurs  
2 later. If a provider's contract is terminated for reasons  
3 related to imminent harm to patient health, or a final  
4 disciplinary action by the provider's licensing board or other  
5 governmental agency, which impairs the provider's ability to  
6 practice within the jurisdiction, the organization may notify  
7 the provider's patients immediately.

8 (d) The notice of the proposed contract termination  
9 provided by the health maintenance organization to the health  
10 care provider shall include:

11 1. The specific term and condition established by the  
12 organization that the organization alleges has been breached  
13 by the provider which serves as the reason for the proposed  
14 termination.

15 2. Notice that the provider has the right to request a  
16 review before the statewide provider and health maintenance  
17 organization qualification dispute resolution program created  
18 under s. 408.7058.

19 3. A time limit of not less than 30 days within which  
20 a provider may request a review.

21 (e) If a health care provider requests a review as  
22 provided in paragraph (d), the health maintenance organization  
23 shall provide to the provider a written notice that states the  
24 names of the witnesses, if any, expected to testify at the  
25 hearing on behalf of the organization.

26 (7)(8) The health maintenance organization must  
27 establish written procedures for a contract provider to  
28 request and the health maintenance organization to grant  
29 authorization for utilization of health care services. The  
30 health maintenance organization must give written notice to  
31 the contract provider prior to any change in these procedures.

1        ~~(8)(9)~~ A contract between a health maintenance  
2 organization and a contracted primary care or admitting  
3 physician may not contain any provision that prohibits such  
4 physician from providing inpatient services in a contracted  
5 hospital to a subscriber if such services are determined by  
6 the organization to be medically necessary and covered  
7 services under the organization's contract with the contract  
8 holder.

9        ~~(9)(10)~~ A health maintenance organization shall not  
10 require a contracted health care practitioner as defined in s.  
11 456.001(4) to accept the terms of other health care  
12 practitioner contracts with the health maintenance  
13 organization or any insurer, or other health maintenance  
14 organization, under common management and control with the  
15 health maintenance organization, including Medicare and  
16 Medicaid practitioner contracts and those authorized by s.  
17 627.6471, s. 627.6472, or s. 641.315, except for a  
18 practitioner in a group practice as defined in s. 456.053 who  
19 must accept the terms of a contract negotiated for the  
20 practitioner by the group, as a condition of continuation or  
21 renewal of the contract. Any contract provision that violates  
22 this section is void. A violation of this section is not  
23 subject to the criminal penalty specified in s. 624.15.

24        (10) Each contract between a health maintenance  
25 organization and a health care provider shall contain the  
26 organization's terms and conditions that must be met by  
27 providers contracting with the organization. The  
28 organization's terms and conditions for contracting with the  
29 organization may not be modified or amended, in any way, by  
30 the organization during the term of the contract between the  
31 organization and the provider. The provisions of this



1 subsection may not be waived, voided, or nullified by  
2 contract.

3 (11) A health maintenance organization which has a  
4 market share of over 25 percent in a county in any of its  
5 health maintenance organization plans shall not refuse to  
6 enter into or renew a contract under such plan with any  
7 licensed health care provider who is willing to meet the terms  
8 and conditions established by the organization pursuant to  
9 subsection (10), who practices within the geographic area  
10 served by the organization, and whose credentials are verified  
11 and examined by the organization pursuant to s. 641.495(6).

12 Section 3. Section 627.6474, Florida Statutes, is  
13 amended to read:

14 627.6474 Provider contracts.--

15 (1) A health insurer shall not require a contracted  
16 health care practitioner as defined in s. 456.001(4) to accept  
17 the terms of other health care practitioner contracts with the  
18 insurer or any other insurer, or health maintenance  
19 organization, under common management and control with the  
20 insurer, including Medicare and Medicaid practitioner  
21 contracts and those authorized by s. 627.6471, s. 627.6472, or  
22 s. 641.315, except for a practitioner in a group practice as  
23 defined in s. 456.053 who must accept the terms of a contract  
24 negotiated for the practitioner by the group, as a condition  
25 of continuation or renewal of the contract. Any contract  
26 provision that violates this subsection ~~section~~ is void. A  
27 violation of this subsection ~~section~~ is not subject to the  
28 criminal penalty specified in s. 624.15.

29 (2) Each contract between a health insurer and a  
30 health care provider shall contain the insurer's terms and  
31 conditions that must be met by providers contracting with the

1 insurer. The insurer's terms and conditions for contracting  
2 with a provider may not be modified or amended, in any way, by  
3 the insurer during the term of the contract between the  
4 insurer and the provider.

5 (3) A health insurer which has a market share of over  
6 25 percent in a county in any of its plans shall not refuse to  
7 enter into or renew a contract under such plan with any  
8 licensed health care provider who is willing to meet the terms  
9 and conditions established by the insurer pursuant to  
10 subsection (2), who practices within the geographic area  
11 served by the insurer, and whose credentials are verified and  
12 examined by the insurer's system for verification and  
13 examination of the credentials of each of its providers.

14 (4)(a) A health insurer or health care provider may  
15 not terminate a contract with a health care provider or health  
16 insurer unless the party terminating the contract provides the  
17 terminated party with a written reason for the proposed  
18 termination.

19 (b) A health insurer may terminate a contract with a  
20 health care provider only if the provider fails to comply with  
21 the insurer's written terms and conditions that have been  
22 provided to the provider pursuant to subsection (2). If an  
23 insurer proposes to terminate a contract with a provider, the  
24 insurer shall provide the provider with 60 days' advance  
25 written notice of the insurer's intent to terminate the  
26 provider's contract. This paragraph does not apply in cases  
27 involving imminent harm to patient health or a final  
28 disciplinary action by the provider's licensing board or other  
29 governmental agency which impairs the provider's ability to  
30 practice within the jurisdiction.

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1       (c) If a health insurer proposes to terminate a  
2 contract of a health care provider, the insurer shall not  
3 notify the provider's patients of the proposed termination  
4 until the effective date of the termination or the conclusion  
5 of the review or hearing provided in this section, whichever  
6 occurs later. If a provider's contract is terminated for  
7 reasons related to imminent harm to patient health or a final  
8 disciplinary action by the provider's licensing board or other  
9 governmental agency which impairs the provider's ability to  
10 practice within the jurisdiction, the insurer may notify the  
11 provider's patients immediately.

12       (d) The notice of the proposed contract termination  
13 provided by the health insurer to the health care provider  
14 shall include:

15           1. The specific term and condition established by the  
16 insurer that the insurer alleges has been breached by the  
17 provider which serves as the reason for the proposed  
18 termination.

19           2. Notice that the provider has the right to request a  
20 review before the statewide provider and insurer qualification  
21 dispute resolution program created pursuant to s. 408.7058.

22           3. A time limit of not less than 30 days within which  
23 a provider may request a review.

24       (e) If the health care provider requests a review, the  
25 provider shall be provided a written notice that states the  
26 names of the witnesses, if any, expected to testify at the  
27 hearing on behalf of the insurer.

28       (5) The provisions of this section shall apply to  
29 contracts entered into pursuant to s. 627.6471 or s. 627.6472.  
30 The provisions of this section may not be waived, voided, or  
31 nullified by contract.

1           Section 4. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

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Requires the Agency for Health Care Administration to establish a statewide health care provider and health maintenance organization qualification dispute resolution program to resolve contract disputes between health care providers and health maintenance organizations. Revises provisions for termination by a health maintenance organization of a contract with a health care provider. See bill for details.

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