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1 A bill to be entitled

2 An act relating to managed health care; providing a
3 popular reference name; prohibiting the contract between a
4 managed care plan and a health care provider from
5 containing provisions allowing the managed care plan to
6 change a material term of the contract; providing certain
7 exceptions; requiring that a managed care plan notify a
8 provider within a specified period of its intent to change
9 a material term; providing certain exceptions; prohibiting
10 additional provisions in the contract which require a
11 provider to accept additional patients or comply with
12 certain programs or procedures without prior disclosure;
13 providing certain exceptions; prohibiting certain other
14 contract provisions that conflict with state law or
15 confidentiality requirements; providing definitions;
16 specifying acts and omissions constituting grounds for
17 disciplinary action by the Secretary of Health Care
18 Administration against a managed care plan; requiring that
19 a proceeding under the act comply with the requirements
20 for notice and a hearing provided in ch. 120, F.S.;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Health Care Equity Act.--

26 (1) This section may be popularly referred to as the
27 "Health Care Equity Act."

28 (2) A contract issued, amended, or renewed on or after
29 January 1, 2004, between a managed care plan and a health care
30 provider for the provision of health care services to a plan



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31 enrollee or subscriber may not contain any of the following
32 terms:

33 (a)1. Authority for the managed care plan to change a
34 material term of the contract, unless the change has first been
35 negotiated and agreed to by the provider and the managed care
36 plan or unless the change is necessary to comply with state or
37 federal law or any accreditation requirements of a private
38 accreditation organization. If a change is made by amending a
39 manual, policy, or procedure document that is referenced in the
40 contract, the managed care plan must provide 45 business days'
41 notice to the provider and the provider has the right to
42 negotiate and agree to the change. If the managed care plan and
43 the provider cannot agree to the change to a manual, policy, or
44 procedure document, the provider may terminate the contract
45 prior to implementation of the change. In any event, the
46 managed care plan must provide at least 45 business days'
47 notice of its intent to change a material term, unless a change
48 in state or federal law or any accreditation requirements of a
49 private accreditation organization require a shorter timeframe
50 for compliance. However, if the parties mutually agree, the
51 requirement for 45 business days' notice may be waived. This
52 subparagraph does not limit the ability of the parties to
53 mutually agree to the proposed change at any time after the
54 provider has received notice of the proposed change.

55 2. If a contract between a provider and a managed care
56 plan provides benefits to enrollees or subscribers through a
57 preferred provider arrangement, the contract may contain
58 provisions permitting a material change to the contract by the
59 managed care plan if the plan provides at least 45 business
60 days' notice to the provider of the change and if the provider



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61 has the right to terminate the contract prior to the
62 implementation of the change.

63 (b) A provision that requires a health care provider to
64 accept additional patients beyond the contracted number or in
65 the absence of a number if, in the reasonable professional
66 judgment of the provider, accepting additional patients would
67 endanger patients' access to, or continuity of, care.

68 (c) A requirement to comply with quality improvement or
69 utilization management programs or procedures of a managed care
70 plan, unless the requirement is fully disclosed to the health
71 care provider at least 15 business days prior to the date the
72 provider executes the contract. However, the managed care plan
73 may make a change to the quality improvement or utilization
74 management programs or procedures at any time if the change is
75 necessary to comply with state or federal law or any
76 accreditation requirements of a private accreditation
77 organization. A change to the quality improvement or
78 utilization management programs or procedures must be made
79 pursuant to paragraph (a).

80 (d) A provision that waives or conflicts with any
81 provision of chapter 641, Florida Statutes. A provision in the
82 contract that allows the managed care plan to provide
83 professional liability or other coverage or to assume the cost
84 of defending the provider in an action relating to professional
85 liability or in any other action does not conflict with or
86 violate this paragraph.

87 (e) A requirement to permit access to patient information
88 in violation of federal or state law concerning the
89 confidentiality of patient information.

90 (3) Any contract provision that violates subsection (2) is



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91 void, unlawful, and unenforceable.

92 (4) This section may not be construed or applied as
 93 setting the rate of payment to be included in contracts between
 94 managed care plans and health care providers.

95 (5) As used in this section, the term:

96 (a) "Health care provider" means any professional person,
 97 medical group, independent practice association, organization,
 98 health facility, or other person or institution licensed or
 99 authorized by the Agency for Health Care Administration to
 100 deliver or furnish health care services.

101 (b) "Material" means a provision in a contract to which a
 102 reasonable person would attach importance in determining the
 103 action to be taken upon the provision.

104 Section 2. Grounds for disciplinary action.--

105 (1) The Secretary of Health Care Administration may, after
 106 appropriate notice and opportunity for a hearing, by order
 107 suspend or revoke any license issued by the agency to a managed
 108 care plan or assess administrative penalties if the secretary
 109 finds that the licensee has committed any of the acts or
 110 omissions constituting grounds for disciplinary action.

111 (2) The following acts or omissions constitute grounds for
 112 disciplinary action by the secretary:

113 (a) The managed care plan is operating at variance with
 114 the basic organizational documents filed with the agency, or
 115 with its published plan, or the managed care plan is operating
 116 in any manner contrary to that described in, and reasonably
 117 inferred from, its application for licensure and annual report,
 118 or any modification thereof, unless amendments allowing the
 119 variation have been submitted to, and approved by, the
 120 secretary.



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121 (b) The managed care plan has issued or uses, or permits
122 others to use, evidence of coverage or a schedule of charges
123 for health care services which do not comply with those
124 published in the latest evidence of coverage approved by the
125 agency.

126 (c) The managed care plan does not provide basic health
127 care services to its enrollees and subscribers as set forth in
128 the evidence of coverage. This paragraph does not apply to a
129 contract for specialized health care services.

130 (d) The continued operation of the managed care plan will
131 constitute a substantial risk to its subscribers and enrollees.

132 (e) The managed care plan has violated, attempted to
133 violate, or conspired to violate, directly or indirectly, or
134 assisted in or abetted a violation of or conspiracy to violate
135 any provision of chapter 641, Florida Statutes, any rule
136 adopted by the agency under chapter 641, Florida Statutes, or
137 any order issued by the agency under chapter 641, Florida
138 Statutes.

139 (f) The managed care plan has engaged in any conduct that
140 constitutes an unfair method of competition or unfair or
141 deceptive act or practice, as defined in s. 641.3903, Florida
142 Statutes.

143 (g) The managed care plan has permitted, or aided or
144 abetted, any violation by an employee or contractor who holds a
145 certificate, license, permit, registration, or exemption which
146 would constitute grounds for discipline against the holder of
147 the certificate, license, permit, registration, or exemption.

148 (h) The managed care plan has permitted, or aided or
149 abetted, the commission of any illegal act.

150 (i) The managed care plan has engaged the services of an



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151 officer, director, employee, associate, or provider of the plan
 152 in violation of an order issued by the secretary.

153 (j) The managed care plan has engaged a solicitor or
 154 supervisor of solicitation contrary to the provisions of an
 155 order issued by the secretary.

156 (k) The managed care plan, its management company, or any
 157 other affiliate of the plan, or any controlling person,
 158 officer, director, or other person occupying a principal
 159 management or supervisory position in the managed care plan,
 160 management company, or affiliate, has been convicted of or has
 161 pled nolo contendere to a crime, or committed any act involving
 162 dishonesty, fraud, or deceit, which crime or act is
 163 substantially related to the qualifications, functions, or
 164 duties of a person engaged in business in accordance with
 165 chapter 641, Florida Statutes.

166 (l) The managed care plan has been subject to a final
 167 disciplinary action taken by this state, another state, an
 168 agency of the Federal Government, or another country for any
 169 act or omission that would constitute a violation of chapter
 170 641, Florida Statutes.

171 (m) The managed care plan has violated any law requiring
 172 that medical information be kept confidential.

173 (3) (a) The secretary may prohibit any person from serving
 174 as an officer, director, employee, associate, or provider of
 175 any managed care plan, or of any management company of a
 176 managed care plan, if:

177 1. The prohibition is in the public interest and the
 178 person has committed, caused, participated in, or had knowledge
 179 of a violation of chapter 641, Florida Statutes, by a managed
 180 care plan or management company of a managed care plan.



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181 2. The person was an officer, director, employee,
182 associate, or provider of a managed care plan, or of a
183 management company of a managed care plan, whose license has
184 been suspended or revoked and the person had knowledge of, or
185 participated in, any of the prohibited acts for which the
186 license was suspended or revoked.

187 (b) A proceeding for issuing an order under this
188 subsection may be included as a part of a proceeding against a
189 managed care plan under this section or may constitute a
190 separate proceeding, subject in either case to subsection (4).

191 (4) A proceeding under this section requires notice to,
192 and the opportunity for a hearing with regard to, the person
193 affected in accordance with chapter 120, Florida Statutes.

194 Section 3. This act shall take effect July 1, 2003.