

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Brown offered the following:

Amendment (with title amendment)

Between lines 1574 and 1575, insert:

Section 34. Subsections (12), (13), and (18) of section 641.19, Florida Statutes, are amended to read:

641.19 Definitions.--As used in this part, the term:

(12) "Health maintenance contract" means any contract entered into by a health maintenance organization with a subscriber or group of subscribers to provide coverage for comprehensive health care services in exchange for a prepaid per capita or prepaid aggregate fixed sum.

(13) "Health maintenance organization" means any organization authorized under this part which:

(a) Provides, through arrangements with other persons, emergency care, inpatient hospital services, physician care including care provided by physicians licensed under chapters

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28 458, 459, 460, and 461, ambulatory diagnostic treatment, and
29 preventive health care services.‡

30 (b) Provides, either directly or through arrangements with
31 other persons, health care services to persons enrolled with
32 such organization, on a prepaid per capita or prepaid aggregate
33 fixed-sum basis.‡

34 (c) Provides, either directly or through arrangements with
35 other persons, comprehensive health care services which
36 subscribers are entitled to receive pursuant to a contract.‡

37 (d) Provides physician services, by physicians licensed
38 under chapters 458, 459, 460, and 461, directly through
39 physicians who are either employees or partners of such
40 organization or under arrangements with a physician or any group
41 of physicians.‡~~and~~

42 (e) If offering services through a managed care system,
43 then the managed care system must be a system in which a primary
44 physician licensed under chapter 458 or chapter 459 and chapters
45 460 and 461 is designated for each subscriber upon request of a
46 subscriber requesting service by a physician licensed under any
47 of those chapters, and is responsible for coordinating the
48 health care of the subscriber of the respectively requested
49 service and for referring the subscriber to other providers of
50 the same discipline when necessary. Each female subscriber may
51 select as her primary physician an obstetrician/gynecologist who
52 has agreed to serve as a primary physician and is in the health
53 maintenance organization's provider network.

54 (f) Except in cases in which the health care provider is
55 an employee of the health maintenance organization, the fact
56 that the health maintenance organization arranges for the

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57 provision of health care services under this chapter does not
58 create an actual agency, apparent agency, or employer-employee
59 relationship between the health care provider and the health
60 maintenance organization for purposes of vicarious liability for
61 the medical negligence of the health care provider.

62 (18) "Subscriber" means an entity or individual who has
63 contracted, or on whose behalf a contract has been entered into,
64 with a health maintenance organization for health care coverage
65 ~~services~~ or other persons who also receive health care coverage
66 ~~services~~ as a result of the contract.

67 Section 35. Subsection (3) of section 641.51, Florida
68 Statutes, is amended to read:

69 641.51 Quality assurance program; second medical opinion
70 requirement.--

71 (3) The health maintenance organization shall not have the
72 right to control the professional judgment of a physician
73 licensed under chapter 458, chapter 459, chapter 460, or chapter
74 461 concerning the proper course of treatment of a subscriber
75 ~~shall not be subject to modification by the organization or its~~
76 ~~board of directors, officers, or administrators, unless the~~
77 ~~course of treatment prescribed is inconsistent with the~~
78 ~~prevailing standards of medical practice in the community.~~

79 However, this subsection shall not be considered to restrict a
80 utilization management program established by an organization or
81 to affect an organization's decision as to payment for covered
82 services. Except in cases in which the health care provider is
83 an employee of the health maintenance organization, the health
84 maintenance organization shall not be vicariously liable for the
85 medical negligence of the health care provider, whether such

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86 claim is alleged under a theory of actual agency, apparent
87 agency, or employer-employee relationship.

88
89 ===== T I T L E A M E N D M E N T =====

90 Remove line(s) 122, and insert:
91 enforcement; amending s. 641.19, F.S.; providing that health
92 care providers providing services pursuant to coverage provided
93 under a health maintenance organization contract are not
94 employees or agents of the health maintenance organization;
95 providing exceptions; amending s. 641.51, F.S.; proscribing a
96 health maintenance organization's right to control the
97 professional judgment of a physician; providing that a health
98 maintenance organization shall not be vicariously liable for the
99 medical negligence of a health care provider; providing
100 exceptions; amending s. 766.106, F.S.; requiring the