

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 581 Dentists

**SPONSOR(S):** Renuart and others

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N	Poche	Shaw
2) Insurance & Banking Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

House Bill 581 prohibits health insurance provider contracts from containing provisions requiring dentists to provide services at a fee set by the health insurer, prepaid limited health service organization or health maintenance organization unless the services are covered under the subscriber agreement. The bill defines "covered services" and requires the insurer or organization to set fees for covered services in good faith. Fees may not be nominal or de minimis in an effort to circumvent the provisions of the bill. Lastly, the bill prohibits an insurer or an organization from requiring, as a term of its contract with a dentist, that the dentist participate in a discount medical plan.

The bill also adds PLHSO provider arrangement contracts to the list of insurers which may not require a health care practitioner to accept the terms of other health care practitioner contracts with an insurer, PLHSO, or HMO as a condition of continuing or renewing a contract.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2013, and applies to contracts entered into or renewed on or after that date.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Regulation of Health Insurers and Health Maintenance Organizations (HMOs)

The Office of Insurance Regulation (OIR) regulates health insurance policies and rates under Part VI of Chapter 627, F.S. OIR also regulates HMO contracts and rates under Part I of Chapter 641, F.S. The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under Part III of Chapter 641, F.S.

##### Health Care Practitioners

Health care practitioners, as defined in s. 456.001(4), F.S., include, but are not limited to, physicians, osteopathic physicians, chiropractors, podiatrists, nurses, pharmacists, dentists, midwives, optometrists, speech pathologists, occupational therapists, orthotic providers, massage therapists, clinical laboratory personnel, and psychologists.

##### Health Insurer Provider Arrangements

Health insurer provider contracts are regulated by the OIR. Current Florida law does not prohibit provider contracts between health insurers and dentists from containing provisions that require the dentist to provide services to the subscribers to a health insurance plan or policy at a fee set by the health insurer, regardless of whether or not the services are covered under the health insurance plan or policy.

Section 627.6474, F.S., provides that a health insurer cannot require a contracted health care practitioner to accept the terms of other health care practitioner contracts with the insurer, or any other insurer or HMO under common management and control with the insurer, including Medicare and Medicaid practitioner contracts, preferred provider, exclusive provider organizations, or provider contracts, except for a practitioner in a group practice who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this provision is considered void.

##### Prepaid Limited Health Service Organization (PLHSO) Provider Arrangements

PLHSOs are authorized in s. 636.003, F.S. This statute defines "limited health service" to include the following:

- ambulance services;
- dental care services;
- vision care services;
- mental health services;
- substance abuse services;
- chiropractic services;
- podiatric care services; and
- pharmaceutical services.

AHCA currently has two types of PLHSOs- a prepaid dental health plan (PDHP), as authorized in s. 409.912(43), F.S., and a prepaid mental health plan (PMHP), as authorized in s. 409.912(4)(b), F.S. These prepaid limited health service organizations are administered under contract with AHCA and reimbursed on a capitated basis.

As of March 2013, approximately 1,385,862 beneficiaries are enrolled in the PDHP program and 632,150 beneficiaries are enrolled in the PMHP program.

Provider arrangements for PLHSOs are authorized in s. 636.035, F.S. Current law does not prohibit provider contracts between PLHSOs and dentists from containing provisions that require dentists to provide non-covered services to the PLHSO subscribers at a fee set by the PLHSO.

### HMO Provider Contracts

Section 641.315, F.S., specifies requirements for the HMO provider contracts with “health care practitioners” as defined in s. 456.001(4), F.S. Section 641.315, F.S., does not currently prohibit provider contracts between health maintenance organizations and dentists from containing provisions that require the practitioner to provide services to the HMO subscribers at a fee set by the HMO unless the services are covered services under the applicable subscriber agreement.

### **Effect of Proposed Changes**

The bill amends s. 627.6474, F.S., to add PLHSO provider arrangement contracts, authorized under s. 636.035, F.S., to the list of insurers which may not require a health care practitioner to accept the terms of other health care practitioner contracts with an insurer, PLHSO, or HMO.

The bill also amends ss. 627.6474, 636.035, and 641.315, F.S., to prohibit a contract between a health insurer, a PLHSO, or an HMO and a dentist from containing provisions that require the dentist to provide a service to the insured or subscriber at a fee set by the insurer, PLHSO, or HMO, unless the service is a covered service under the applicable policy or subscriber agreement. The bill defines a “covered service” as a service listed as a benefit to which the insured or subscriber is entitled under the contract with the insurer, PHLISO, or HMO. The bill requires the insurer to set reimbursement rates for covered services in good faith, prohibiting de minimis or nominal payments for covered services as a means to avoid the requirement of the bill

The bill prohibits an insurer, PHLISO, or HMO from including in its contract with a dentist a requirement that the dentist participate in a discount medical plan.

The bill defines “covered services” as those services that are reimbursable under an applicable contract, subject to contractual limitations on benefits. The bill specifically exempts from the definition of “covered services” any dental services provided by a dentist to a covered individual who has met or exceeded the periodic maximum amount of benefits allowed by the individual’s health insurance plan or policy. Also, services that are not listed in an individual’s health insurance plan or policy as a benefit to which the individual is entitled under the plan or policy are not considered covered services.

The bill applies to all contracts entered into or renewed on or after July 1, 2013.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 627.6474, F.S., relating to provider contracts.

**Section 2:** Amends s. 636.035, F.S., relating to provider arrangements.

**Section 3:** Amends s. 641.315, F.S., relating to provider contracts.

**Section 4:** Provides an effective date of July 1, 2013, and applies to contracts entered into or renewed on or after that date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow dentists to charge higher fees to patients for services that are not considered "covered services" under a contract with a PLHSO, HMO, or health insurer.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The title of the bill, an act relating to dentists, is narrower than the substance of the bill. For instance, section 1 of the bill concerns provider contracts between health insurers and health care providers. Because the bill, in part, applies to health care providers other than dentists, it is recommended that the title of the bill be amended to a more general “act relating to” clause. An appropriate title is, “An act relating to health care provider contracts.”

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**