**SFA**    BILL ANALYSIS     DEC 0 8 1987

**Senate Bill 160** (Substitute S-1 as reported)
Sponsor: Senator Doug Cruce
Committee: Health Policy

Date Completed: 11-17-87

## RATIONALE

The Public Health Code currently allows health maintenance organizations (HMOs) to contract with or employ health care providers to render services to their enrollees through various arrangements. Some HMOs, for example, own their facilities that are staffed with physicians, nurses, pharmacists, and other health care providers. On the other hand, there are HMOs that contract with "independent practice associations", which in turn contract with physicians in private practice. Regardless of the type of HMO, some health care providers claim that HMOs are making contractual or employment decisions solely on the basis of the class of health profession to which a provider belongs. For example, some optometrists claim that HMOs will hire an ophthalmologist, who is a medical doctor specializing in eye care and eye surgery, instead of an optometrist, when the position only requires that the practitioner perform eye examinations, of which both are capable. An HMO should not be allowed to discriminate solely on the basis of licensure, some people believe, when contracting or employing health care professionals.

## CONTENT

The bill would amend provisions of the Public Health Code, under which a health maintenance organization may contract with health professionals and affiliated providers to render services the HMO has agreed to provide under its contracts. In meeting the Code's requirements for licensing and regulating HMOs (MCL 333.21021), under the bill, the HMO could contract with or employ health professionals on the basis of cost, quality, availability of services to the membership, conformity to the administrative procedures of the HMO, and other factors relevant to delivery of economical, quality care, but could not discriminate solely on the basis of class of health professionals to which the health professional belonged.

MCL 333.21053

## FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

## ARGUMENTS

### Supporting Argument

Some health care providers such as podiatrists, optometrists, and nurse practitioners, argue that HMOs are discriminating against them solely on the basis of class of profession to which they belong. For example, both optometrists and ophthalmologists can perform eye examinations. Yet, some HMOs more readily employ ophthalmologists rather than optometrists to perform the same function, even when an optometrist could deliver the service at a lower cost than a highly specialized provider,

such as an ophthalmologist. The issue is one of equal opportunity to enter the market place. The bill would not mandate any new health care benefits. Instead, the bill would allow alternative classes of health care providers to apply for membership in HMOs and be eligible for membership in a nondiscriminating manner. Thus, the bill would allow HMO subscribers to have a greater choice of class of health care providers, at a potentially lower cost.

### Opposing Argument

Under the bill, HMOs still could discriminate against certain classes of health professionals. Rather than base exclusion of a health care provider on licensure, the HMO could claim reasons of cost, quality, availability of services to membership, and conformity to administrative procedures of the HMO. In effect, the HMO still could accomplish the same goal of discrimination against certain health professionals, only this could be done under the guise of other factors allowed under the bill.
   *Response:* While HMOs would retain some flexibility in their selection of health care providers, the bill would underscore a policy that, when all factors are equal, an HMO should try to use the lowest cost health care provider.

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