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## FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 02/3/01 HB 299  
 SHORT TITLE: Any Willing Provider Act SB \_\_\_\_\_  
 ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 60

### **SOURCES OF INFORMATION**

Health Policy Commission(HPC)  
 Governor's Office (GO)  
 Public Regulation Commission (PRC)  
 Attorney General's Office (AG)  
 Children, Youth and Families Department (CYFD)

### **SUMMARY**

#### Synopsis of Bill

House Bill 299 creates the Any Willing Provider Act which restricts health care insurers and provider service networks from denying any health care provider the right to participate as a provider and prevents any person who is a party to the policy from selecting the health care provider of his choice, or modify the coverage in such a way that would cause a party to choose one health care provider over another.

#### Significant Issues

The Division of Insurance (DOI) wrote that the cost of insurance plans might increase due to higher benefits outside of networks, DOI anticipates premiums will increase substantially.

The DOI further noted the provisions of HB 299 will prevent insurers from being able to negotiate incentives or have adequate control over providers.

## **ADMINISTRATIVE IMPLICATIONS**

All health insurers would be required to amend and file their contracts with the Insurance Division at the Public Regulation Commission. The DOI staff will handle changes.

## **RELATIONSHIP**

Relates to HB 60, Medicaid Provider Act, which seeks to ensure fair and non-discriminatory practices toward health care providers.

## **OTHER SUBSTANTIVE ISSUES**

- § HB 299 will maximize freedom of choice for consumers because they will be permitted to choose their own providers. Freedom of choice is a core value of most consumer activists groups currently active in the health care arena.
- § Several other states have already passed “any willing provider” legislation including Wyoming, Colorado, Illinois, Indiana, Kentucky, Virginia and Arkansas. Perhaps more popular than pure “any willing provider” laws are variants of patient protection legislation with as many as 15 states seriously debating such proposed legislation.
- The American Medical Association (AMA) , while it has supported protections for both patients and physicians in their dealings with managed care plans, has not offered outright support of “any willing provider legislation”. Their fallback position has been that it is not a guaranteed right that any physician who meets established credentialing criteria can contract with a managed care plan. Their version of patient protection requires managed care plans to establish criteria for credentialing, based upon objectives standards of quality. A helpful feature of their legislation is the provision that prohibits plans from terminating managed care contracts “without cause” and requires due process appeals from all adverse decisions
- HB 299 may affect the managed care system which is largely based on negotiated contracts that trade-off volume for discounted fees. Under existing managed care schemes, doctors agree to reduce their fees in return for a guaranteed income based on patient volume. The doctor is paid a capitated rate for each patient on his roster, whether he treats the patient or not. “Any willing provider” could potentially dilute the number of patients per physician, thus diluting the benefits of reduced fees. The loss of patients might mean a loss of cost savings through volume discounts.
- Any willing provider legislation would require a managed care organization to contract with any provider who agrees to meet the terms and conditions of the organization, whether or not it can be shown that the provider meets the geographic access needs and/or quality standards of the health plan.
- Any willing provider legislation could result in increased costs to the health care system. Managed care plans achieve cost saving by selective contracting and minimizing administrative overhead by utilizing a selected network. Overturning these established business arrangements could have unanticipated cost impacts.
- Any willing provider laws could undermine managed care’s ability to control the quality of clinical services provided to its members. Managed care organizations rely on utilization review and other quality assurance programs to ensure that patients receive high-quality, cost-

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effective care. These programs could lose their effectiveness if managed care cannot selectively contract with providers who satisfy the plan's quality requirements and whose performance can be regularly monitored by the plan.

- HB 299 may conflict with judicial interpretations of existing federal law. Federal court decisions have struck down state any willing provider laws on the grounds they interfere with pre-exemptions established under the federal Employee Retirement Income Security Act (ERISA).

DW/prr