

**ARKANSAS SENATE**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

\*\*\*\*\*

**Subtitle of Senate Bill No. 44**

"AN ACT TO PROVIDE FOR ENFORCEMENT OF THE PATIENT PROTECTION ACT OF  
2005."

\*\*\*\*\*

**Amendment No. 2 to Senate Bill No. 44.**

Amend Senate Bill No. 44 as engrossed, S1/12/05 (version: 01-12-2005 08:59)::

Page 1, lines 22 and 23, delete the phrase "except § 1169, and"

AND

Page 2, delete lines 6 through 10, and substitute the following:

"SECTION 3. Agencies' Enforcement.

Notwithstanding Section 1 of this act, the Insurance Commissioner shall:

(1) Enforce the state's any willing provider laws using powers granted to the commissioner in the Arkansas Insurance Code, Arkansas Code §§ 23-60-101, et seq.; and

(2) Be entitled to seek an injunction against a health insurer in a court of competent jurisdiction."

AND

Page 2, delete lines 12 and 13 and substitute the following:

"SECTION 4. (a) The state's any willing provider laws shall not be construed:

(1) To require all physicians or a percentage of physicians in the state or a locale to participate in the provision of services for a health maintenance organization; or

(2) To take away the authority of health maintenance organizations that provide coverage of physician services to set the terms and conditions for participation by physicians, though health maintenance organizations are required to set such terms and conditions in a nondiscriminatory manner.

(b)(1) The state's any willing provider laws shall apply to:

(A) All health insurers, regardless of whether they are providing insurance, including pre-paid coverage, or administering or



contracting to provide provider networks; and

(B) All multiple employer welfare arrangements and multiple employer trusts.

(2) Subsection (b) of this section shall apply only to the extent permitted by ERISA as in effect on January 1, 2005.

SECTION 5. As used in this act:

(1) "Any willing provider law" means a law that prohibits discrimination against a provider willing to meet the terms and conditions for participation established by a health insurer or that otherwise precludes an insurer from prohibiting or limiting participation by a provider who is willing to accept a health insurer's terms and conditions for participation in the provision of services through a health benefit plan;

(2) "ERISA" means the federal Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1161 et seq. except Section 1169, and as in effect on January 1, 2005;

(3) "Health benefit plan" means any health insurance policy or certificate; health maintenance organization contract; hospital and medical service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or any health benefit plan that affects the rights of an Arkansas insured and bears a reasonable relation to Arkansas, whether delivered or issued for delivery in Arkansas;

(4) "Health care provider" or "provider" means those individuals or entities licensed by the State of Arkansas to provide health care services, limited to the following:

(A) Physicians and surgeons (M.D. and D.O.);

(B) Podiatrists;

(C) Chiropractors;

(D) Physical therapists;

(E) Speech pathologists;

(F) Audiologists;

(G) Dentists;

(H) Optometrists;

(I) Hospitals;

(J) Hospital-based services;

(K) Psychologists;

(L) Licensed professional counselors;

(M) Respiratory therapists;

(N) Pharmacists;

(O) Occupational therapists;

(P) Long-term care facilities;

(Q) Home health care;

(R) Hospice care;

(S) Licensed ambulatory surgery centers;

(T) Rural health clinics;

(U) Licensed certified social workers;

(V) Licensed psychological examiners;

(W) Advanced practice nurses;

(X) Licensed dieticians;

(Y) Community mental health centers or clinics;

(Z) Certified orthotists; and

(AA) Prosthetists.

(BB) Other health care practitioners as determined by the department in regulations promulgated under §§ 25-15-201, et seq.; and

(5) "Health insurer" means any entity, including but not limited to insurance companies, health maintenance organizations, hospital and medical services corporations, preferred provider organizations, physician hospital organizations, and third party administrators and prescription benefit management companies, that is authorized by the State of Arkansas to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Faris  
SFI/VLH - 01-27-2005 13:41  
SFI039

\_\_\_\_\_  
Secretary