

SUBJECT: Standard physician contract forms in managed care plans

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Smithee, Averitt, Burnam, G. Lewis, J. Moreno, Olivo, Seaman, Thompson

0 nays

1 absent — Eiland

SENATE VOTE: On final passage, May 2 — 29-0

WITNESSES: No public testimony

DIGEST: SB 1571 would add art. 21.52K to the Insurance Code to require the insurance commissioner to adopt rules that established standard contract forms for use by managed care entities in certain physician contracts.

Applicability. SB 1571 would apply to a health maintenance organization (HMO), a preferred provider organization (PPO), an approved nonprofit health corporation that held a certificate of authority, and any other entity that offered a managed care plan, including an insurance company, a group hospital service corporation, a fraternal benefit society, or a stipulated premium insurance company.

Contract advisory panel. The bill would establish a contract advisory panel to advise and make recommendations to the commissioner regarding the adoption of standard contract forms specified by this legislation. The panel would be composed of nine members appointed jointly by the lieutenant governor and the House speaker as follows:

- ! two attorneys representing actively practicing physicians;
- ! two attorneys representing insurers, HMOs, or health plans;
- ! one manager for independently practicing physicians;
- ! one independently practicing physician in the state;
- ! one medical director for an insurer, HMO, or health plan;

- ! one provider relations director or contract manager for an insurer, HMO, or health plan; and
- ! one individual representing consumers.

The consumer representative could not receive any compensation from or be employed directly or indirectly by physicians, health care providers, insurers, HMOs, or other health benefit plan issuers. The consumer representative also could not be a health care provider or a person required to register as a lobbyist. Members would serve without compensation and at the will of the lieutenant governor and speaker.

Standard physician contracts. The commissioner, in consultation with the contract advisory panel, would adopt rules not later than June 1, 2002, that established standard contract forms for use by managed care entities in entering into contracts with physicians. Managed care entities would have to use the standard contracts; however, a managed care entity or a physician could use a contract form other than the required standard form if:

- ! the physician asked for it to be used;
- ! the physician and managed care entity prepared it with equal representation;
- ! the physician and the managed care entity mutually agreed it could be used; and
- ! it would not cause a managed care entity to violate discrimination provisions of this bill.

Discrimination prohibited. A managed care entity could not:

- ! discriminate against a physician who used a standard contract form adopted under this bill;
- ! require or use reimbursement differentials or financial incentives that penalized or placed a physician at a disadvantage based in any part on the use of a standard contract form adopted by the bill's standards; or
- ! require a physician to waive the use of a standard contract form adopted by this bill.

Violation. A violation by a managed care entity of these provisions or a rule adopted under this legislation would constitute a violation of and would

be subject to remedies under the Unfair Competition and Unfair Practices Act. Also, the commissioner could suspend or revoke a managed care entity's license to engage in the business of insurance in this state if the commissioner determined that the managed care entity had failed to use the required form.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001. Unless an exception applied, a managed care entity would use a standard contract form adopted by these provisions for any contact between the entity and a physician signed or renewed on or after January 1, 2003.

**SUPPORTERS
SAY:**

SB 1571 would be valuable to the majority of physicians and, in turn, to patients of managed care entities. Over 90 percent of all doctors in Texas are either solo practitioners or members of a group of five or fewer physicians. These doctors do not have negotiation leverage with large managed health care entities. This bill would help physicians balance power in contract talks and could improve standards, such as reimbursement provisions, to the benefit of enrollees. The state already promulgates standard forms involving other professions. Adopting such forms for doctors would benefit not just physicians but the overall quality of care.

**OPPONENTS
SAY:**

The Legislature should not be in the business of promulgating contracts between two private entities. The statutes and administrative code already contain a broad range of requirements related to physicians of managed care entities, including numerous definitions for physicians. Reconciling a standard contract with the current provisions under law could prove difficult.