

## **BILL ANALYSIS**

Senate Research Center  
77R13828 MXM-F

C.S.S.B. 1571  
By: Nelson  
Business & Commerce  
4/25/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, managed care organizations use a wide variety of contracts and forms in their negotiations and agreements with providers. C.S.S.B. 1571 provides for the use of standard contracts, forms, and other documents for routine managed care functions, and establishes the Contract Advisory Panel to create standardized forms and contracts between the plan and the provider. Other nonstandard contracts could be used if the plan and provider agree on the form.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Chapter 21E, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter 21E, Insurance Code, by adding Article 21.52K, as follows:

Art. 21.52K. STANDARD MANAGED CARE CONTRACTS FOR PHYSICIANS

Sec. 1. DEFINITIONS. Defines “managed care plan.”

Sec. 2. APPLICABILITY OF ARTICLE. Provides that this article applies to a health maintenance organization, a preferred provider organization, an approved nonprofit health corporation that holds a certificate of authority under Article 21.52F of this code, and any other entity that offers a managed care plan, including certain specific entities.

Sec. 3. STANDARD PHYSICIAN CONTRACTS. (a) Requires the commissioner of Insurance (commissioner), in consultation with the contract advisory panel, and except as provided by Subsection (b) of this section, to adopt rules that establish standard contract forms for use by managed care entities in entering into contracts with physicians and require managed care entities to use those contracts.

(b) Authorizes a managed care entity or a physician to use a contract form other than a form required under Subsection (a) of this section that meets certain requirements.

Sec. 4. CONTRACT ADVISORY PANEL; MEMBERSHIP. (a) Provides that the contract advisory panel is established as an advisory panel to the commissioner to advise and make recommendations to the commissioner regarding the adoption of standard contract forms under Section 3 of this article.

(b) Provides that the advisory panel is composed of nine specified members appointed jointly by the lieutenant governor and the speaker of the house of representatives.

(c) Prohibits the consumer representative on the advisory panel from receiving any compensation from or being employed directly or indirectly by physicians, health care

providers, insurers, health maintenance organizations, or other health benefit plan issuers; being a health care provider; or being a person required to be registered as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory panel.

(d) Provides that members serve without compensation and at the will of the lieutenant governor and speaker of the house of representatives.

Sec. 5. CERTAIN DISCRIMINATION PROHIBITED. Prohibits a managed care entity from discriminating against a physician who uses a standard contract form adopted under this article; requiring or using reimbursement differentials or financial incentives that penalize or place a physician at a disadvantage based in whole or in part on the use of a standard contract form adopted under this article; or requiring a physician to waive the use of a standard contract form adopted under this article.

Sec. 6. EFFECT OF VIOLATION. (a) Provides that a violation of this article or a rule adopted under this article by a managed care entity constitutes a violation of Articles 21.21 and 21.21A of this code and is subject to the remedies available under those articles.

(b) Authorizes the commissioner to suspend or revoke a managed care entity's license or other authority to engage in the business of insurance in this state if the commissioner determines that the managed care entity has failed to use a contract form the use of which is required under this article.

SECTION 2. Requires the commissioner, not later than June 1, 2002, to adopt the rules and contract forms required by Section 3, Article 21.52K, Insurance Code, as added by this Act.

SECTION 3. Requires a managed care entity, unless an exception applies, to use a standard contract form adopted under Section 3, Article 21.52K, Insurance Code, as added by this Act for any contract between the managed care entity and a physician signed or renewed on or after January 1, 2003.

SECTION 4. Effective date: upon passage or September 1, 2001.

#### **SUMMARY OF COMMITTEE CHANGES**

Differs from As Filed S.B. 1571 by amending Subchapter 21E, Insurance Code, by adding Article 21.52K, where the As Filed version amended Title I, Insurance Code, by adding Chapter 20D.