

## BILL ANALYSIS

Senate Research Center  
78R948 AJA-D

S.B. 159  
By: Nelson  
State Affairs  
4/28/2003  
As Filed

### DIGEST AND PURPOSE

Currently, most managed health care plans require similar information in the terms and conditions for health care service contracts, but in different formats. Physicians contend that this increases their administrative burden. As proposed, S.B. 159 establishes a standardized managed care contract for physicians.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Article 21.52N, Subchapter E, Chapter 21, Insurance Code) of this bill.

### SECTION BY SECTION ANALYSIS

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

#### Art. 21.52N. STANDARD MANAGED CARE CONTRACTS FOR PHYSICIANS

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

Sec. 2. APPLICABILITY OF ARTICLE. Makes this article applicable to a health maintenance organization, a preferred provider organization, an approved nonprofit health corporation that holds a certificate under Chapter 844 of this code, and any other entity that issues a managed care plan including:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842 of this code;
- (3) a fraternal benefit society operating under Chapter 885 of this code; or
- (4) a stipulated premium insurance company operating under Chapter 884 of this code.

Sec. 3. STANDARD PHYSICIAN CONTRACTS. (a) Requires the commissioner of insurance (commissioner) to adopt rules that establish standard contract forms to be used by managed care entities when entering into contracts with physicians and that require managed care entities to use those contracts, except as provided under Subsection (c).

(b) Provides that such contract forms may not waive a provision of state or federal law and must, if such arbitration is required or allowed under the contract form, allow the consolidation into a single arbitration proceeding of disputes arising from contracts between the managed care entity and two or more physicians practicing together on the request of the physicians.

(c) Authorizes a managed care entity or a physician to use a contract form other than that required under Subsection (a) provided that the form meets certain requirements.

(d) Prohibits the terms of a contract form adopted under Subsection (a) and entered into by a physician and a managed care entity from being modified

without the mutual agreement of both parties.

Sec. 4. CONTRACT ADVISORY PANEL; MEMBERSHIP. (a) Establishes a contract advisory panel to advise the commissioner regarding the adoption of standard contract forms under Section 3 of this article.

(b) Establishes the specific composition of the panel's nine members, to be appointed by the lieutenant governor and the speaker of the house of representatives.

(c) Provides that the consumer representative on the advisory panel may not be employed in certain activities.

(d) Provides that the members of the advisory panel serve without compensation and at the will of the appointing authorities.

Sec. 5. CERTAIN DISCRIMINATION PROHIBITED. Prohibits a managed care entity from discriminating against a physician who uses a standard contract form under this article, using certain incentives to disadvantage a physician who chooses to use a standard contract form, or requiring a physician to waive the use of a standard contract form.

Sec. 6. EFFECT OF VIOLATION. (a) Establishes that a violation of this article or a rule adopted under this article by a managed care entity constitutes an unfair or deceptive act or practice in the business of insurance for the purposes of Article 21.21 (Unfair Competition and Unfair Practices) of this code and a violation of Article 21.21A (Misrepresentation of Policy Terms, Penalty) of this code.

(b) Authorizes the commissioner to suspend or revoke a managed care entity's authority to engage in insurance business in this state upon determining that the managed care entity has failed to use a contract form as required under this article.

(c) Authorizes the commissioner to impose sanctions or penalties under Chapter 82 (Sanctions) or 84 (Administrative Penalties) of this code against a managed care entity that repeatedly violates this article.

SECTION 2. Requires the commissioner to adopt the rules and contract forms required by this Act by June 1, 2004.

SECTION 3. Requires a managed care entity to use a standard contract form adopted under this Act for any contract between itself and a physician signed or renewed on or after January 1, 2005, unless an exception applies.

SECTION 4. Effective date: upon passage or September 1, 2003.