

BILL ANALYSIS

C.S.H.B. 648
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Managed care organizations require physicians and patients to complete large amounts of paperwork. Increasing administrative costs are a factor in rising health care costs, and administrative duties detract from the time physicians are able to spend with their patients. Most managed care organizations ask for the same information, but they often place the information in a different format and require physicians to use the organization's specific forms. Physicians across the state have an average of 19 contracts in place. In urban areas such as Dallas and Houston, many physicians report that they have more than 30 managed care contracts to evaluate and maintain. The length of these contracts varies, but most report an average of 20 pages per contract. The absence of standardized forms can delay care and inconvenience patients and physicians. C.S.H.B. 648 provides for the use of standard physician contract forms by certain persons.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 1 (Article 21.52P, Insurance Code) and SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 648 amends the Insurance Code to require the Commissioner of Insurance (Commissioner) to adopt rules that establish standard contract forms and to require a person, as defined, to use those standard contracts. The bill provides that an adopted contract form may not waive a provision of state or federal law and must allow for certain means of dispute resolution. The bill prohibits a contract form that has been adopted and entered into from being modified unless agreed upon by the physician and the person. The bill authorizes the use of a contract form that has not been adopted by the Commissioner in specified instances. The bill provides that a contract form must require the use of a standardized explanation of payments, to be available both electronically and in writing. The bill specifies the provisions that must be included in an adopted contract form and specifies the information that must be included in a written standardized explanation. The bill provides that a contract form must require the adoption and use of standardized patient referral forms and preauthorization or precertification forms.

The bill prohibits certain discriminatory behavior by a person, as defined, against a person using a standard contract form. The bill subjects a person who violates Article 21.52P (Standard Contracts for Physician Services) or a rule adopted thereunder to administrative penalties.

The bill authorizes the Commissioner to issue a cease and desist order, request the attorney general to recover a civil penalty, seek injunctive relief, or take any combination of the described actions, for a violation of Article 21.52P or a rule adopted thereunder, or for an unfair discriminatory act. The bill subjects a person who violates Article 21.52P or a rule adopted thereunder to a civil penalty of not more than \$10,000 for each act and each day of violation. The bill authorizes the Commissioner to make requests for information or conduct an examination of a person for a believed violation of Article 21.52P or a rule thereunder.

The bill authorizes the Commissioner to set a hearing regarding a cease and desist order for certain violations and sets forth related procedures. The bill authorizes the Commissioner to refer a matter to the

attorney general, if the Commissioner believes that a person has violated a cease and desist order or failed to pay an assessed penalty. The bill requires persons who are required to use standard contracts to file on an annual basis a statement of the number of individual contracts that have been executed and to pay a related fee to cover department costs. The bill authorizes the attorney general to bring an action against a person for violation of Article 21.52P or a rule adopted thereunder and seek certain remedies, in addition to any other available remedies.

The bill establishes a contract advisory panel to advise and make recommendations to the Commissioner regarding the adoption of standard contract forms. The bill requires the Commissioner to adopt the required rules and forms by June 1, 2004.

EFFECTIVE DATE

On passage or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 648 modifies the original by applying the provisions of Article 21.52P to a person that contracts for or arranges for health care services provided by a physician, rather than to an health maintenance organization, a preferred provider organization, an approved nonprofit health corporation, and any other entity that issues managed care. The substitute prohibits discrimination against physicians who use standard contract forms through redirection of patients to other physicians or other health care providers. The substitute adds to the information that must be included in a written standardized explanation of payments and specifies that electronic explanations must comply with federal requirements.

The substitute adds provisions relating to the powers of the commissioner and enforcement remedies, hearings for cease and desist orders, referrals to the attorney general, informational filings and related fees, and other remedies. The substitute removes the provision stating that a violation of Article 21.52P or a rule adopted thereunder constitutes an unfair or deceptive act or practice in the business of insurance and a violation of Article 21.21A. The substitute removes provisions authorizing the suspension or revocation of a managed care entity's license or authority to engage in business. The substitute adds administrative penalties for certain violations.