

By: Taylor

H.B. No. 1337

A BILL TO BE ENTITLED

AN ACT

relating to benefits required to be provided or offered under certain health benefit plans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Insurance Code, is amended by adding Chapter 28 to read as follows:

CHAPTER 28. ASSESSMENT OF HEALTH CARE BENEFIT AND OFFER OF
COVERAGE MANDATES

SUBCHAPTER A. GENERAL PROVISIONS

Art. 28.001. GENERAL DEFINITIONS. In this chapter:

(1) "Certified actuary" means:

(A) a fellow of the Society of Actuaries;

(B) a fellow of the Casualty Actuarial Society;

or

(C) a member of the American Academy of Actuaries.

(2) "Health care benefit mandate" means a state law that requires a health benefit plan to provide coverage or reimbursement for a specific health care service, treatment, or procedure or a specific medical condition or illness or to reimburse a specific type of health care provider directly or in a specific amount. The term does not include an offer of coverage mandate.

(3) "Offer of coverage mandate" means a state law that

1 requires a health benefit plan to offer as part of the plan's
2 benefit schedule coverage that may be rejected by the contract
3 holder and for which an additional premium may be charged.

4 Art. 28.002. DEFINITION OF HEALTH BENEFIT PLAN. (a) In
5 this chapter, "health benefit plan" means a plan that provides
6 benefits for medical or surgical expenses incurred as a result of a
7 health condition, accident, or sickness, including an individual,
8 group, blanket, or franchise insurance policy or insurance
9 agreement, a group hospital service contract, or an individual or
10 group evidence of coverage or similar coverage document that is
11 offered by:

12 (1) an insurance company;

13 (2) a group hospital service corporation operating
14 under Chapter 842 of this code;

15 (3) a fraternal benefit society operating under
16 Chapter 885 of this code;

17 (4) a stipulated premium insurance company operating
18 under Chapter 884 of this code;

19 (5) an exchange operating under Chapter 942 of this
20 code;

21 (6) a health maintenance organization operating under
22 Chapter 843 of this code;

23 (7) a multiple employer welfare arrangement that holds
24 a certificate of authority under Chapter 846 of this code;

25 (8) an approved nonprofit health corporation that
26 holds a certificate of authority under Chapter 844 of this code; or

27 (9) a Lloyd's plan operating under Chapter 941 of this

1 code.

2 (b) "Health benefit plan" does not include:

3 (1) a plan that provides coverage only:

4 (A) for a specified disease or for another
5 limited benefit other than for cancer;

6 (B) for accidental death or dismemberment;

7 (C) for wages or payments in lieu of wages for a
8 period during which an employee is absent from work because of
9 sickness or injury;

10 (D) as a supplement to a liability insurance
11 policy;

12 (E) for credit insurance;

13 (F) for dental or vision care; or

14 (G) for indemnity for hospital confinement;

15 (2) a Medicare supplemental policy as defined by
16 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss),
17 as amended;

18 (3) a workers' compensation insurance policy;

19 (4) medical payment insurance coverage provided under
20 a motor vehicle insurance policy; or

21 (5) a long-term care insurance policy, including a
22 nursing home fixed indemnity policy, unless the commissioner
23 determines that the policy provides benefit coverage so
24 comprehensive that the policy is a health benefit plan as described
25 by Subsection (a) of this article.

26 Art. 28.003. APPLICABILITY TO CERTAIN REQUIREMENTS. This
27 chapter does not apply to a state law that requires a health benefit

1 plan to provide coverage for a particular group of people who
2 otherwise would be excluded from coverage.

3 [Articles 28.004-28.050 reserved for expansion]

4 SUBCHAPTER B. IMPACT ASSESSMENT OF PROPOSED MANDATE BY
5 LEGISLATIVE BUDGET BOARD

6 Art. 28.051. REQUEST FOR IMPACT ASSESSMENT. If the chair
7 of a standing committee of the legislature determines that a bill
8 referred to that committee would, if enacted, create a health care
9 benefit mandate or an offer of coverage mandate, the chair shall
10 send a copy of the bill to the Legislative Budget Board and request
11 that an impact assessment of the mandate be prepared.

12 Art. 28.052. PREPARATION OF IMPACT ASSESSMENT; ACTUARIAL
13 ASSISTANCE REQUIRED. (a) On receipt of a bill under Article
14 28.051 of this code, the Legislative Budget Board shall prepare a
15 written impact assessment of the mandate in accordance with this
16 subchapter.

17 (b) In preparing an impact assessment, the director of the
18 Legislative Budget Board may:

19 (1) use any information supplied by any person,
20 agency, organization, or governmental unit that the director
21 determines is reliable; and

22 (2) obtain assistance in preparing the assessment from
23 any state agency or by contract with a private entity.

24 (c) The Legislative Budget Board shall obtain the
25 assistance of at least one certified actuary who is qualified to
26 provide an opinion relating to an impact assessment under this
27 subchapter.

1 (d) An impact assessment prepared under this subchapter
2 must include:

3 (1) any report relating to the mandate produced by an
4 actuary or other expert retained by the Legislative Budget Board;
5 and

6 (2) a description of all underlying assumptions, data,
7 and studies on which the evaluation was based.

8 (e) Not later than the 21st day after the date the
9 Legislative Budget Board receives a request for an impact
10 assessment under Article 28.051 of this code, the director of the
11 board shall submit the impact assessment to the chair of the
12 committee making the request.

13 Art. 28.053. CONTENTS OF IMPACT ASSESSMENT. (a) An impact
14 assessment of a health care benefit mandate or offer of coverage
15 mandate prepared under this subchapter must include, as applicable:

16 (1) the impact of imposing the mandate on the
17 availability of health benefit plan coverage to persons in this
18 state who do not have that coverage;

19 (2) the level of demand in the state for the coverage
20 that is the subject of the mandate, including the number and
21 percentage of people in the state who are affected by the medical
22 condition or illness that is the subject of the mandate or who would
23 be likely to use the coverage that is the subject of the mandate;

24 (3) the extent to which the coverage is available
25 under health benefit plans that are in effect at the time the impact
26 assessment is made;

27 (4) the extent to which any health care service,

1 treatment, or procedure that would be required under the mandate
2 would be available in the absence of health benefit plan coverage;

3 (5) the epidemiological impact and medical efficacy of
4 the health care service, treatment, or procedure, including the
5 impact of the service, treatment, or procedure on an individual's
6 health status and the effect on an individual's health status of not
7 providing the service, treatment, or procedure;

8 (6) the direct impact of the mandate on health benefit
9 plan premiums;

10 (7) the net impact of the mandate on premiums,
11 considering the extent to which the coverage is already provided
12 under health benefit plans that are in effect at the time the impact
13 assessment is made and the extent to which other costs are offset by
14 the mandate;

15 (8) the costs to an individual of obtaining the health
16 care service, treatment, or procedure in the absence of health
17 benefit plan coverage;

18 (9) the fiscal impact on the state associated with
19 enacting the mandate and with not enacting the mandate;

20 (10) the impact on the economy and society of not
21 providing the health care service, treatment, or procedure;

22 (11) the impact of the health care service, treatment,
23 or procedure on the use of sick days and disability costs;

24 (12) the relative quality and cost-efficiency of the
25 care that is the subject of the mandate in the absence of health
26 benefit plan coverage; and

27 (13) a description of the extent to which the health

1 care benefit mandate or offer of coverage mandate is required by
2 federal law and the consequences of not enacting a mandate that
3 includes the minimum requirements of the federal law.

4 (b) For an offer of coverage mandate, the impact assessment
5 must also estimate the difference in the cost of a health benefit
6 plan that provides the coverage and a comparable health benefit
7 plan that does not provide the coverage.

8 (c) For a health care benefit mandate, the impact assessment
9 must also estimate the impact of the mandate if the mandate was an
10 offer of coverage mandate.

11 (d) An impact assessment must provide a separate analysis of
12 the cost to the Employees Retirement System of Texas of providing
13 the coverage that is the subject of the mandate being assessed to
14 the population covered by the group benefits program under Chapter
15 1551 of this code or a successor program, even if the program would
16 not be subject to the mandate.

17 (e) An impact assessment must provide a separate analysis of
18 the costs of the health benefit plan mandate or offer of coverage
19 mandate for:

20 (1) group health benefit plans, collectively and
21 according to the type of plan;

22 (2) individual health benefit plans; and

23 (3) small employer health benefit plans written under
24 Chapter 26 of this code, even if those plans would not be subject to
25 the mandate.

26 Art. 28.054. IMPACT ASSESSMENT IN CERTAIN CIRCUMSTANCES.

27 If the director of the Legislative Budget Board determines that the

1 impact of a proposed health benefit plan mandate or offer of
2 coverage mandate cannot be fully ascertained or the director is
3 unable to acquire or develop sufficient information to prepare a
4 complete impact assessment within the time prescribed by Article
5 28.052(e) of this code, the director shall:

6 (1) report that fact in writing to the chair of the
7 committee requesting the impact assessment; and

8 (2) prepare an impact assessment that:

9 (A) complies as much as possible with the
10 requirements of Article 28.053 of this code; and

11 (B) explains which of the applicable
12 requirements of that article are not met and why they are not met.

13 Art. 28.055. DISTRIBUTION OF IMPACT ASSESSMENT. Copies of
14 an impact assessment prepared under this subchapter must be
15 distributed to the members of the committee before the committee
16 votes on the bill to which the assessment relates. The assessment
17 shall be attached to the bill on first printing. If the bill is
18 amended by the committee in a way that alters a mandate, the chair
19 shall obtain an updated impact assessment, which shall also be
20 attached to the bill on first printing.

21 Art. 28.056. IMPACT ASSESSMENT REMAINS WITH BILL. An
22 impact assessment prepared under this subchapter shall remain with
23 the bill to which the assessment relates throughout the entire
24 legislative process, including submission to the governor.

25 [Articles 28.057-28.100 reserved for expansion]

26 SUBCHAPTER C. ASSESSMENT OF ENACTED MANDATE BY SUNSET ADVISORY

27 COMMISSION; EXPIRATION OF MANDATE

1 Art. 28.101. DEFINITION. In this subchapter, "review
2 date" means the review date assigned by the commissioner to a health
3 care benefit mandate or offer of coverage mandate under Article
4 28.103 of this code.

5 Art. 28.102. APPLICABILITY OF SUBCHAPTER. This subchapter
6 applies to a health care benefit mandate or offer of coverage
7 mandate provided for:

8 (1) in a statute; or

9 (2) in a rule adopted by the commissioner.

10 Art. 28.103. REVIEW DATES. (a) The commissioner shall
11 assign a review date to each health care benefit mandate or offer of
12 coverage mandate.

13 (b) A review date must be September 1 of an even-numbered
14 year and must be established in a manner that requires that the
15 review be conducted not later than the year of the sixth anniversary
16 of the effective date of the mandate.

17 (c) The commissioner may assign the same review date to
18 mandates that are substantially similar or substantively related to
19 each other.

20 (d) Notwithstanding Subsection (b) of this section, the
21 commissioner shall assign each health care benefit mandate or offer
22 of coverage mandate in effect on September 1, 2003, a review date of
23 September 1, 2004, September 1, 2006, or September 1, 2008. To the
24 extent possible, the commissioner shall assign an approximately
25 equal number of mandates to each date. This subsection expires
26 December 31, 2008.

27 Art. 28.104. ASSESSMENT OF MANDATE. (a) Before the review

1 date for a health care benefit mandate or an offer of coverage
2 mandate, the Sunset Advisory Commission shall:

3 (1) review and take action necessary to verify the
4 reports relating to the mandate submitted by the department and the
5 Texas Department of Health under Article 28.151 of this code;

6 (2) conduct an assessment of the mandate based on the
7 criteria provided by Article 28.107 of this code and prepare a
8 written report; and

9 (3) review any prior commission recommendations
10 relating to the mandate in reports presented to the legislature
11 under this subchapter in a preceding legislative session.

12 (b) A report prepared by the Sunset Advisory Commission
13 under this article is a public record.

14 Art. 28.105. PUBLIC HEARINGS. (a) Between the review date
15 for a health care benefit mandate or offer of coverage mandate and
16 December 1 of the calendar year in which the review date occurs, the
17 Sunset Advisory Commission shall conduct public hearings
18 concerning the assessment of the mandate provided by Article 28.107
19 of this code.

20 (b) The Sunset Advisory Commission may hold public hearings
21 under this article before the review date if the report required
22 under Article 28.104 is complete and available to the public.

23 Art. 28.106. REPORT; RECOMMENDATION. (a) Not later than
24 January 1 of the year of a regular legislative session, the Sunset
25 Advisory Commission shall present to the legislature and the
26 governor a report on each health care benefit mandate or offer of
27 coverage mandate that was assessed under this subchapter during the

1 preceding year.

2 (b) In the report the Sunset Advisory Commission shall
3 include:

4 (1) the specific findings of the commission regarding
5 each of the criteria considered under Article 28.107 of this code;

6 (2) recommendations of the commission regarding
7 whether the mandate should be continued, modified, or repealed; and

8 (3) any other information the commission considers
9 necessary for a complete assessment of the mandate.

10 Art. 28.107. CRITERIA FOR ASSESSMENT. (a) The Sunset
11 Advisory Commission and the commission's staff, in determining
12 whether a health care benefit mandate or an offer of coverage
13 mandate should be continued, modified, or repealed, shall consider,
14 as applicable:

15 (1) the impact of imposing the mandate on the
16 availability of health benefit plan coverage to persons in this
17 state who do not have that coverage;

18 (2) the level of demand in the state for the coverage
19 that is the subject of the mandate, including the number and
20 percentage of people, statewide and among distinct population
21 groups, who are affected by the medical condition or illness that is
22 the subject of the mandate or who use the coverage that is the
23 subject of the mandate;

24 (3) the extent to which any health care service,
25 treatment, or procedure that would be required under the mandate
26 would be available in the absence of health benefit plan coverage;

27 (4) the epidemiological impact and medical efficacy of

1 the health care service, treatment, or procedure, including the
2 impact of the service, treatment, or procedure on an individual's
3 health status and the effect on an individual's health status of not
4 providing the service, treatment, or procedure;

5 (5) the direct impact of the mandate on health benefit
6 plan premiums;

7 (6) the net impact of the mandate on premiums,
8 considering the extent to which other costs are offset by the
9 mandate;

10 (7) the costs to an individual of obtaining the health
11 care service, treatment, or procedure in the absence of health
12 benefit plan coverage;

13 (8) the fiscal impact on the state associated with
14 continuing the mandate and with repealing the mandate;

15 (9) the impact on the economy and society of not
16 providing the health care service, treatment, or procedure;

17 (10) the impact of the health care service, treatment,
18 or procedure on the use of sick days and disability costs;

19 (11) the relative quality and cost-efficiency of the
20 care that is the subject of the mandate in the absence of health
21 benefit plan coverage; and

22 (12) the extent to which the mandate being assessed is
23 required by federal law and the consequences of repealing the
24 mandate or continuing the mandate in a form that does not include
25 the minimum requirements of the federal law.

26 (b) In considering a mandate's impact on health benefit plan
27 premiums under Subsection (a) of this article, the Sunset Advisory

1 Commission and the commission's staff shall, if applicable, provide
2 a separate analysis of the impact of a health care benefit mandate
3 or offer of coverage mandate on:

4 (1) group health benefit plans collectively and
5 according to the type of plan;

6 (2) individual health benefit plans; and

7 (3) small employer health benefit plans written under
8 Chapter 26 of this code.

9 Art. 28.108. PREPARATION OF REPORT; ACTUARIAL ASSISTANCE
10 REQUIRED. (a) The Sunset Advisory Commission may contract with any
11 person to provide actuarial, medical, or economic expertise or
12 other expertise or services as necessary to allow the commission to
13 prepare a report required under this subchapter.

14 (b) The Sunset Advisory Commission shall obtain the
15 assistance of at least one certified actuary who is qualified to
16 provide an opinion relating to a report under this subchapter.

17 Art. 28.109. CONTINUATION OF MANDATE; SUBSEQUENT REVIEW.
18 (a) A health care benefit mandate or offer of coverage mandate
19 shall continue in effect until the legislature acts on the
20 recommendation of the commission made according to Article 28.106
21 of this code.

22 (b) After a health benefit mandate or offer of coverage
23 mandate is reviewed under this subchapter, the commissioner shall
24 set a subsequent review date for the mandate that is not later than
25 the sixth anniversary of the previous review date.

26 (c) This subchapter does not prohibit the legislature from:

27 (1) repealing a health care benefit mandate or offer

1 of coverage mandate; or

2 (2) considering any other legislation relating to a
3 mandate.

4 [Articles 28.110-28.150 reserved for expansion]

5 SUBCHAPTER D. DATA REPORTING

6 Art. 28.151. DATA REPORTING. (a) Before July 1 of the
7 calendar year in which the review date assigned to a health care
8 benefit mandate or an offer of coverage mandate under Article
9 28.103 of this code occurs:

10 (1) the department shall report to the Sunset Advisory
11 Commission:

12 (A) information regarding the costs associated
13 with the mandate, including the claims paid under health benefit
14 plans that are related to the mandate and the premiums charged for
15 coverage required by the mandate, including appropriate
16 information collected by the department under Subchapter F, Chapter
17 38, of this code, as added by Chapter 852, Acts of the 77th
18 Legislature, Regular Session, 2001; and

19 (B) any other information that the commissioner
20 considers appropriate or that is requested by the Sunset Advisory
21 Commission to the extent that the information is available; and

22 (2) the Texas Department of Health shall report to the
23 Sunset Advisory Commission:

24 (A) information regarding the epidemiological
25 impact and the medical efficacy of the coverage required by the
26 mandate, if applicable; and

27 (B) any other information that the commissioner

1 of public health considers appropriate or that is requested by the
2 Sunset Advisory Commission.

3 (b) The department and the Texas Department of Health shall
4 provide, to the extent the information is available to the agency,
5 any information requested by the Legislative Budget Board for the
6 purpose of preparing an impact assessment under Subchapter B of
7 this chapter.

8 SECTION 2. This Act takes effect September 1, 2003.