

A BILL TO BE ENTITLED

AN ACT

relating to standard physician contract forms for use in managed care plans.

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

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.52N to read as follows:

Art. 21.52N. STANDARD MANAGED CARE CONTRACTS FOR PHYSICIANS

Sec. 1. DEFINITIONS. In this article:

(1) "Managed care entity" means an entity described by Section 2 of this article that issues a managed care plan.

(2) "Managed care plan" means a health benefit plan:

(A) under which health care services are provided to enrollees through contracts with physicians, other health care professionals, or health care facilities; and

(B) that provides financial incentives to enrollees in the plan to use participating physicians, health care professionals, and facilities.

Sec. 2. APPLICABILITY OF ARTICLE. This article applies to a health maintenance organization, a preferred provider organization, an approved nonprofit health corporation that holds a certificate of authority 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

1 under Chapter 842 of this code;

2 (3) a fraternal benefit society operating under
3 Chapter 885 of this code; or

4 (4) a stipulated premium insurance company operating
5 under Chapter 884 of this code.

6 Sec. 3. STANDARD PHYSICIAN CONTRACTS. (a) Except as
7 provided by Subsection (c) of this section, the commissioner, in
8 consultation with the contract advisory panel, shall adopt rules
9 that:

10 (1) establish standard contract forms for use by
11 managed care entities in entering into contracts with physicians;
12 and

13 (2) require managed care entities to use those
14 contracts.

15 (b) A contract form adopted under this section:

16 (1) may not waive a provision of state or federal law;
17 and

18 (2) if the contract form requires or allows a dispute
19 under the contract to be resolved through arbitration, must allow
20 the consolidation into a single arbitration proceeding of disputes
21 that arise under one or more contracts between the managed care
22 entity and physicians and that relate to multiple claims made by two
23 or more physicians practicing together, on the request of the
24 physicians.

25 (c) A managed care entity or a physician may use a contract
26 form other than a form required under Subsection (a) of this section
27 that:

1 (1) the physician asks to be used;

2 (2) the physician and managed care entity prepare with
3 equal representation;

4 (3) the physician and the managed care entity mutually
5 agree may be used; and

6 (4) would not cause a managed care entity to violate
7 Section 5 of this article.

8 (d) The terms of a contract form adopted under Subsection
9 (a) of this section and entered into by a physician and a managed
10 care entity may not be subsequently modified unless the
11 modification is agreed to by the physician and the managed care
12 entity.

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

18 (b) The advisory panel is composed of nine members appointed
19 jointly by the lieutenant governor and the speaker of the house of
20 representatives as follows:

21 (1) two attorneys who primarily represent actively
22 practicing physicians;

23 (2) two attorneys who primarily represent managed care
24 plans;

25 (3) one individual who serves as manager for
26 independently practicing physicians;

27 (4) one physician actively engaged in the independent

1 practice of medicine in this state;

2 (5) one individual who serves as medical director for
3 a managed care plan;

4 (6) one individual who serves as a provider relations
5 director or contract manager for a managed care plan; and

6 (7) one individual who represents consumers.

7 (c) The consumer representative on the advisory panel may
8 not:

9 (1) receive any compensation from or be employed
10 directly or indirectly by a physician, health care provider,
11 insurer, health maintenance organization, or other health benefit
12 plan issuer;

13 (2) be a health care provider; or

14 (3) be a person required to be registered as a lobbyist
15 under Chapter 305, Government Code, because of the person's
16 activities for compensation on behalf of a profession related to
17 the operation of the advisory panel.

18 (d) Members of the advisory panel serve without
19 compensation and at the will of the lieutenant governor and speaker
20 of the house of representatives.

21 Sec. 5. CERTAIN DISCRIMINATION PROHIBITED. A managed care
22 entity may not:

23 (1) discriminate against a physician who uses a
24 standard contract form adopted under this article;

25 (2) require or use reimbursement differentials or
26 financial incentives that penalize or place a physician at a
27 disadvantage based in whole or in part on the use of a standard

1 contract form adopted under this article; or

2 (3) require a physician to waive the use of a standard
3 contract form adopted under this article.

4 Sec. 6. EFFECT OF VIOLATION. (a) A violation of this
5 article or a rule adopted under this article by a managed care
6 entity constitutes an unfair or deceptive act or practice in the
7 business of insurance for the purposes of Article 21.21 of this code
8 and a violation of Article 21.21A of this code.

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

14 (c) The commissioner may impose sanctions or penalties
15 under Chapter 82 or 84 of this code against a managed care entity
16 that repeatedly violates this article.

17 SECTION 2. Not later than June 1, 2004, the commissioner of
18 insurance shall adopt the rules and contract forms required by
19 Section 3, Article 21.52N, Insurance Code, as added by this Act.

20 SECTION 3. Unless an exception applies, a managed care
21 entity shall use a standard contract form adopted under Section 3,
22 Article 21.52N, Insurance Code, as added by this Act, for any
23 contract between the managed care entity and a physician signed or
24 renewed on or after January 1, 2005.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 159

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.