Amend **SB 23** (house committee printing) by inserting the following appropriately numbered article and renumbering articles of the bill accordingly:

ARTICLE _____. PROMOTION OF AVAILABILITY OF COVERAGE FOR NON-NETWORK PROVIDERS

SECTION _____.01. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1458 to read as follows:

CHAPTER 1458. PROMOTION OF AVAILABILITY OF COVERAGE TO NON-NETWORK HEALTH CARE PROVIDERS

Sec. 1458.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services through a health benefit plan.

(2) "Health care facility" means a hospital, emergency clinic, outpatient clinic, or other facility providing health care services.

(3) "Health care practitioner" means an individual who is licensed to provide and provides health care services, including a physician.

(4) "Health care provider" means a health care facility or health care practitioner.

(5) "Participating provider" means a health care provider who has a contract with a health benefit plan to provide medical or health care services to enrollees.

(6) "Non-participating provider" means a health care provider who does not have a contract with a health benefit plan to provide medical or health care services to enrollees.

Sec. 1458.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to any health benefit plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under

Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

(E) a health maintenance organization operating under Chapter 843;

(F) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(G) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

(H) a preferred provider benefit plan operating under Chapter 1301; or,

(I) an entity not authorized under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including a capitation basis; or

(2) provides health and accident coverage through a risk pool created under Chapter 172, Local Government Code, notwithstanding Section 172.014, Local Government Code, or any other law.

(b) This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

(1) medical assistance under Chapter 32, Human Resources Code; or

(2) health benefits under the state child health plan.

Sec. 1458.003. ACCESS TO NONPARTICIPATING PROVIDERS. A health benefit plan that provides, through its health insurance policy, for the payment of a level of coverage that is different from a basic level of coverage provided by the health insurance policy if the enrollee uses a participating provider:

(1) must provide a level of coverage and reimbursement sufficient to ensure that each enrollee has reasonable access to medical and health care provided by participating and nonparticipating providers; and

(2) may not set a deductible, copayment, coinsurance, or other method of cost sharing so as to deny an enrollee reasonable access to medical and health care from nonparticipating providers.

Sec. 1458.004. HEALTH CARE PROVIDER RIGHTS. (a) A health benefit plan may not in any manner prohibit, attempt to prohibit, penalize, terminate, or otherwise restrict a participating provider from discussing with or communicating with an enrollee regarding the availability of nonparticipating providers for the provision of the enrollee's medical or health care services.

(b) A health benefit plan may not terminate the contract of or otherwise penalize a participating provider because the participating provider's patients use nonparticipating providers for medical or health care services.

(c) A participating provider who is terminated by a health benefit plan is entitled, on request, to all information used by the health benefit plan as reasons for the termination, including the economic profile of the terminated participating provider, the standards by which the terminated participating provider was measured, and any statistics underlying any economic profiling and standards.

(d) Notwithstanding any other law, a health benefit plan may not use economic credentialing as a basis for refusing to contract with a health care provider or terminating the contract of a participating provider unless the economic credentialing demonstrates materially higher costs incurred for patients of the health care provider or participating provider.

(e) A health benefit plan may not enter into a contract with a participating provider on the condition that another health care provider be excluded from participating as a participating provider.

(f) Notwithstanding any other law, a health care provider may voluntarily waive a deductible, copayment, or coinsurance established by a health benefit plan.

SECTION ____.02. (a) Section 1458.003, Insurance Code, as added by this article, applies only to a health benefit plan insurance policy or contract delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan policy or contract issued before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 1458.004, Insurance Code, as added by this article, applies only to a contract entered into or renewed by a health care provider and an issuer of a health benefit plan on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.