BILL ANALYSIS

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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to control health costs, employers, as the sponsors of employee group health plans, must be able to examine how they spend their money on health care for their employees. To do this, they must have ready access to claims and loss experience information which demonstrate the amount spent on employee health care and the manner in which it is spent. Without such information, competition is stifled, choices go flat, and prices increase.

There are state laws that attempt to assist an employer in obtaining such information, but these laws have been ineffective. Despite the importance of this issue to a competitive health care market, most employers across the state are routinely unable to obtain timely and meaningful claims or loss experience information pertaining to their health plans.

H.B. 2015 consolidates statutes, provides clear timelines for compliance, and allows protected health information to be exchanged in a manner that is consistent with federal laws and that balances an individual's right to privacy. The bill also provides an incentive and a protection for good faith efforts to comply with the law and increases transparency in the health care market.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1215.001, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 8, Insurance Code, by adding Chapter 1215, as follows:

CHAPTER 1215. REPORTING OF CLAIMS INFORMATION

Sec. 1215.001. DEFINITIONS. (a) Defines “employer,” “governmental entity,” “group health plan,” “health insurance issuer,” “plan,” “plan administrator,” “plan sponsor,” “political subdivision,” and “protected health information,” except as provided by Subsection (b).

(b) Provides that a reference to a federal statute or regulation under Subsection (a) means that statute or regulation as it existed on September 1, 2007, except that the commissioner, by rule, is authorized to adopt a definition based on a later amended, enacted, or adopted federal statute or regulation if the commissioner determines that use of that subsequent statute or regulation is consistent with the purposes of this chapter and promotes regulatory consistency.

Sec. 1215.002. APPLICABILITY OF CHAPTER TO GOVERNMENTAL ENTITY; APPLICABILITY OF OTHER LAW WITH REFERENCE TO GOVERNMENTAL ENTITY. (a) Provides that this chapter applies to a governmental entity that enters into a contract with a health insurance issuer (issuer) that results in the issuer delivering, issuing for delivery, or renewing a group health plan (plan).

(b) Requires an issuer to treat a governmental entity described by Subsection (a) as a plan sponsor or plan administrator, for purposes of this chapter.

(c) Provides that a report of claim information provided under this section to a governmental entity is confidential and exempt from public disclosure under Chapter 552 (Public Information), Government Code.

Sec. 1215.003. RECEIPT OF AND RESPONSE TO REQUEST FOR CLAIM INFORMATION. (a) Requires an issuer, not later than the 30th day after the date the issuer receives a written request for a written report of claim information from a plan, plan sponsor, or plan administrator, to provide the requesting party the report, subject to Subsections (d), (e), and (f). Provides that the issuer is not obligated to provide a report under this subsection regarding a particular employer or plan more than twice in any 12-month period.

(b) Requires an issuer to provide the report of claim information under Subsection (a) by means set forth in this subsection.

(c) Requires a report of claim information provided under Subsection (a) to contain all information available to the issuer that is responsive to the request made under Subsection (a), including, subject to Subsections (d), (e), and (f), certain information set forth in this subsection.

(d) Prohibits an issuer from disclosing protected health information in a report of claim information provided under this section if the issuer is prohibited from disclosing that information under another state or federal law that imposes more stringent privacy restrictions than those imposed under federal law under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191). Requires the issuer to take certain actions set forth in this subsection to withhold information in accordance with this subsection.

(e) Entitles a plan sponsor to receive protected health information under Subsections (c)(5) and (6) (which involve certain information that could be used to identify an individual) and Section 1215.004 only after an appropriately authorized representative of the plan sponsor makes a certain certification to the issuer.

(f) Provides that a plan sponsor who does not provide the certification required by Subsection (e) is not entitled to receive the protected health information described by Subsections (c)(5) and (6) and Section 1215.004, but entitles that sponsor to receive a report of claim information that includes the information described by Subsections (c)(1)-(4) (which involve numerical information that cannot be used to identify an individual).

(g) Requires the report, in the case of a request made under Subsection (a) after the date of termination of coverage, to contain all information available to the issuer as of the date of the report that is responsive to the request, including protected health information and the information described by Subsections (c)(1)-(6), for the period described by Subsection (c) preceding the date of termination of coverage or for the entire policy period, whichever period is shorter. Prohibits the report from including the protected health information described by Subsections (c)(5) and (6) unless a certification has been provided in accordance with Subsection (e), notwithstanding this subsection.

(h) Requires a plan, plan sponsor, or plan administrator to request a report under Subsection (a) before or on the second anniversary of the date of termination of coverage under a plan issued by the health benefit plan issuer.

Sec. 1215.004. REQUEST FOR ADDITIONAL INFORMATION. (a) Authorizes the plan, plan sponsor, or plan administrator, on receipt of the report required by Section 1215.003(a), to review the report and, not later than the 10th day after the date the report is received, to make a written request to the issuer for additional information in accordance with this section for specified individuals.

(b) Requires the issuer, with respect to a request for additional information concerning specified individuals for whom claims information has been provided under Section 1215.003(c)(5), to provide additional information on the prognosis or recovery if available and, for individuals in active case management, the most recent case management information, including any future expected costs and treatment plan, that relate to the claims for that individual.

(c) Requires the issuer to respond to the request for additional information under this section not later than the 15th day after the date of the request under this section unless the requesting plan, plan sponsor, or plan administrator agrees to a request for additional time.

(d) Provides that the issuer is not required to produce the report described by this section unless a certification has been provided in accordance with Section 1215.003(e).

Sec. 1215.005. COMPLIANCE WITH CHAPTER DOES NOT CREATE LIABILITY. Provides that an issuer that releases information, including protected health information, in accordance with this chapter has not violated a standard of care and is not liable for civil damages resulting from, and is not subject to criminal prosecution for, releasing such information.

Sec. 1215.006. ADMINISTRATIVE PENALTIES. Provides that a health insurance issuer that does not comply with this chapter is subject to administrative penalties under Chapter 84 (Administrative Penalties).

SECTION 2. Repealer: Article 21.49-15 (Information Required to be Provided by Insurer to Governmental Entity with which Insurer Contracts), Insurance Code (not codified), Chapter 1209 (Health Care Benefits Claims Cost Information Required to be Provided to Employer), and Section 1501.614 (Reporting of Claims Information), Insurance Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.