BILL ANALYSIS

Senate Research Center

C.S.H.B. 1888
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no required process for ranking and tiering physicians and there is no standard process to dispute a health plan's ranking of a physician.

In recent years, many health insurance companies have developed ranking systems to measure the quality and efficiency of physicians. The goal of these systems is to allow health plans and consumers to choose higher-quality and more efficient providers. In 2003, a coalition of business organizations and consumer advocates formed the Consumer-Purchaser Disclosure Project (project) to develop a fair and comprehensive measurement system. In April 2008, the project released the Patient Charter for Physician Performance Measurement, Reporting, and Tiering Programs to address the problem.

C.S.H.B. 1888 relates to standards required for certain rankings of physicians by health benefit plans.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1460.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 8, Insurance Code, by adding Chapter 1460, as follows:

CHAPTER 1460. STANDARDS REQUIRED REGARDING CERTAIN PHYSICIAN RANKINGS BY HEALTH BENEFIT PLANS

Sec. 1460.001. DEFINITIONS. Defines "health benefit plan issuer" and "physician."

Sec. 1460.002. EXEMPTION. Provides that this chapter does not apply to:

(1) a Medicaid managed care program operated under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code;

(2) a Medicaid program operated under Chapter 32 (Medical Assistance Program), Human Resources Code;

(3) the child health plan program under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, or the health benefits plan for children under Chapter 63 (Health Benefits Plan for Certain Children), Health and Safety Code; or

(4) a Medicare supplement benefit plan, as defined by Chapter 1652 (Medicare Supplement Benefit Plans).

Sec. 1460.003. PHYSICIAN RANKING REQUIREMENTS. (a) Prohibits a health benefit plan issuer, including a subsidiary or affiliate, from ranking physicians, classifying physicians into tiers based on performance, or publishing physician-specific information that includes rankings, tiers, ratings, or other comparisons of a physician's performance against standards, measures, or other physicians, unless:

(1) the standards used by the health benefit plan issuer conform to nationally recognized standards and guidelines as required by rules adopted under Section 1460.005;

(2) the standards and measurement to be used by the health benefit plan issuer are disclosed to each affected physician before any evaluation period used by the health benefit plan issuer; and

(3) each affected physician is afforded, before any publication or other public dissemination, an opportunity to dispute the ranking or classification through a process that, at a minimum, includes due process protections that conform to certain protections.

(b) Provides that this section does not apply to the publication of a list of network physicians and providers if ratings or comparisons are not made and the list is not a product of nor reflects the tiering or classification of physicians or providers.

Sec. 1460.004. DUTIES OF PHYSICIANS. Prohibits a physician from requiring or requesting that a patient of the physician enter into an agreement under which the patient agrees not to rank or otherwise evaluate the physician, participate in surveys regarding the physician, or in any way comment on the patient's opinion of the physician.

Sec. 1460.005. RULES; STANDARDS. (a) Requires the commissioner of insurance (commissioner) to adopt rules as necessary to implement this chapter, rather than in the manner prescribed by Subchapter A (Rules), Chapter 36 (Department Rules and Procedures), as necessary to implement this chapter.

(b) Requires the commissioner to adopt rules as necessary to ensure that a health benefit plan issuer that uses a physician ranking system complies with the standards and guidelines described by Subsection (c).

(c) Requires the commissioner, in adopting rules under this section, to consider the standards, guidelines, and measures prescribed by nationally recognized organizations that establish or promote guidelines and performance measures emphasizing quality of health care, including the National Quality Forum (forum) and the AQA Alliance (AQA). Requires the commissioner, if neither the forum or AQA have established standards or guidelines regarding an issue, to consider the standards, guidelines, and measures prescribed by the National Committee on Quality Assurance and other similar national organizations. Requires the commissioner, if the forum, nor the AQA Alliance nor other national organizations have established standards or guidelines regarding an issue, to consider standards, guidelines, and measures based on other bona-fide nationally recognized guidelines, expert-based physician consensus quality standards, or leading objective clinical evidence and scholarship.

Sec. 1460.006. DUTIES OF HEALTH BENEFIT PLAN ISSUER. Requires a health benefit plan issuer (issuer) to ensure that:

(1) physicians currently in clinical practice are actively involved in the development of the standards used under this chapter; and

(2) the measures and methodology used in the comparison programs described by Section 1460.003 are transparent and valid.

Sec. 1460.007. SANCTIONS; DISCIPLINARY ACTIONS. (a) Provides that an issuer that violates this chapter or a rule adopted under this chapter is subject to sanctions and disciplinary actions under Chapters 82 (Sanctions) and 84 (Administrative Penalties).

(b) Provides that a violation of this chapter by a physician constitutes grounds for disciplinary action by the Texas Medical Board, including imposition of an administrative penalty.

SECTION 2. (a) Requires an issuer to comply with Chapter 1460, Insurance Code, as added by this Act, not later than December 31, 2009.

(b) Provides that an issuer is not subject to sanctions or disciplinary actions under Section 1460.007, Insurance Code, as added by this Act, before January 1, 2010.

(c) Provides that a physician is not subject to sanctions or disciplinary actions under Section 1460.007, Insurance Code, as added by this Act, before January 1, 2010.

SECTION 3. Effective date: September 1, 2009.