

By: Davis of Harris, Coleman, Isett, Shelton,
Branch

H.B. No. 1888

A BILL TO BE ENTITLED

AN ACT

relating to standards required for certain rankings of physicians
by health benefit plans.

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

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended
by adding Chapter 1460 to read as follows:

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

Sec. 1460.001. DEFINITIONS. In this chapter:

(1) "Health benefit plan issuer" means an entity
authorized under this code or another insurance law of this state
that provides health insurance or health benefits in this state,
including:

(A) an insurance company;

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

(C) a health maintenance organization operating
under Chapter 843; and

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

(2) "Physician" means an individual licensed to
practice medicine in this state or another state of the United
States.

Sec. 1460.002. EXEMPTION. This chapter does not apply to:

1 (1) a Medicaid managed care program operated under
2 Chapter 533, Government Code;

3 (2) a Medicaid program operated under Chapter 32,
4 Human Resources Code;

5 (3) the child health plan program under Chapter 62,
6 Health and Safety Code, or the health benefits plan for children
7 under Chapter 63, Health and Safety Code; or

8 (4) a Medicare supplement benefit plan, as defined by
9 Chapter 1652.

10 Sec. 1460.003. PHYSICIAN RANKING REQUIREMENTS. (a) A
11 health benefit plan issuer, including a subsidiary or affiliate,
12 may not rank physicians, classify physicians into tiers based on
13 performance, or publish physician-specific information that
14 includes rankings, tiers, ratings, or other comparisons of a
15 physician's performance against standards, measures, or other
16 physicians, unless:

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

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

24 (3) each affected physician is afforded, before any
25 publication or other public dissemination, an opportunity to
26 dispute the ranking or classification through a process that
27 includes due process protections that conform to protections

1 described by 42 U.S.C. Section 11112.

2 (b) This section does not apply to the publication of a list
3 of network physicians and providers if ratings or comparisons are
4 not made.

5 Sec. 1460.004. DUTIES OF PHYSICIANS. A physician may not
6 require or request that a patient of the physician enter into an
7 agreement under which the patient agrees not to:

- 8 (1) rank or otherwise evaluate the physician;
9 (2) participate in surveys regarding the physician; or
10 (3) in any way comment on the patient's opinion of the
11 physician.

12 Sec. 1460.005. RULES; STANDARDS. (a) The commissioner
13 shall adopt rules in the manner prescribed by Subchapter A, Chapter
14 36, as necessary to implement this chapter.

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

19 (c) In adopting rules under this section, the commissioner
20 shall consider the standards and guidelines prescribed by
21 nationally recognized organizations that establish or promote
22 guidelines and performance measures emphasizing quality of health
23 care, including the National Quality Forum and the AQA Alliance. If
24 neither the National Quality Forum nor the AQA Alliance has
25 established standards or guidelines regarding an issue, the
26 commissioner shall consider the standards and guidelines
27 prescribed by the National Committee on Quality Assurance and other

1 similar national organizations.

2 Sec. 1460.006. DUTIES OF HEALTH BENEFIT PLAN ISSUER. A
3 health benefit plan issuer shall ensure that:

4 (1) physicians being measured are actively involved in
5 the development of the standards used under this chapter; and

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

9 Sec. 1460.007. SANCTIONS; DISCIPLINARY ACTIONS. (a) A
10 health benefit plan issuer that violates this chapter or a rule
11 adopted under this chapter is subject to sanctions and disciplinary
12 actions under Chapters 82 and 84.

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

16 SECTION 2. (a) A health benefit plan issuer shall comply
17 with Chapter 1460, Insurance Code, as added by this Act, not later
18 than December 31, 2009.

19 (b) A health benefit plan issuer is not subject to sanctions
20 or disciplinary actions under Section 1460.007, Insurance Code, as
21 added by this Act, before January 1, 2010.

22 SECTION 3. This Act takes effect September 1, 2009.