By: Carona, Deuell S.B. No. 586

A BILL TO BE ENTITLED

AN ACT

relating to the operation of certain managed care plans regarding out-of-network health care providers.

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

SECTION 1. Section 843.306, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) A health maintenance organization may not terminate participation of a physician or provider solely because the physician or provider informs an enrollee of the full range of physicians and providers available to the enrollee, including out-of-network providers.

SECTION 2. Subsection (a), Section 843.363, Insurance Code, is amended to read as follows:

(a) A health maintenance organization may not, as a condition of a contract with a physician, dentist, or provider, or in any other manner, prohibit, attempt to prohibit, or discourage a physician, dentist, or provider from discussing with or communicating in good faith with a current, prospective, or former patient, or a person designated by a patient, with respect to:

(1) information or opinions regarding the patient's health care, including the patient's medical condition or treatment options;

(2) information or opinions regarding the terms, requirements, or services of the health care plan as they relate to

the medical needs of the patient; [~~or~~]

(3) the termination of the physician's, dentist's, or provider's contract with the health care plan or the fact that the physician, dentist, or provider will otherwise no longer be providing medical care, dental care, or health care services under the health care plan; or

(4) information regarding the availability of facilities, both in-network and out-of-network, for the treatment of the patient's medical condition.

SECTION 3. Section 1301.001, Insurance Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Out-of-network provider" means a physician or health care provider who is not a preferred provider.

SECTION 4. Subchapter A, Chapter 1301, Insurance Code, is amended by adding Sections 1301.0051 and 1301.0052 to read as follows:

Sec. 1301.0051. ACCESS TO OUT-OF-NETWORK PROVIDERS. An insurer may not terminate, or threaten to terminate, an insured's participation in a preferred provider benefit plan solely because the insured uses an out-of-network provider.

Sec. 1301.0052. PROTECTED COMMUNICATIONS BY PREFERRED PROVIDERS. (a) An insurer may not in any manner prohibit, attempt to prohibit, penalize, terminate, or otherwise restrict a preferred provider from communicating with an insured about the availability of out-of-network providers for the provision of the insured's medical or health care services.

(b) An insurer may not terminate the contract of or

otherwise penalize a preferred provider solely because the provider's patients use out-of-network providers for medical or health care services.

(c) A preferred provider terminated by an insurer is entitled, on request, to all information on which the insurer wholly or partly based the termination, including the economic profile of the preferred provider, the standards by which the provider is measured, and the statistics underlying the profile and standards.

(d) An insurer's contract with a preferred provider may require that, except in a case of a medical emergency as determined by the preferred provider, before the provider may make an out-of-network referral for an insured, the preferred provider shall inform the insured:

(1) that:

(A) the insured may choose a preferred provider or an out-of-network provider; and

(B) if the insured chooses the out-of-network provider the insured may incur higher out-of-pocket expenses; and

(2) whether the preferred provider has a financial interest in the out-of-network provider.

SECTION 5. (a) Except as provided by this section, the changes in law made by this Act apply only to an insurance policy, health maintenance organization contract, or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2010. A policy, contract, or evidence of coverage 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) Sections 843.306 and 843.363, Insurance Code, as amended by this Act, and Section 1301.0052, Insurance Code, as added by this Act, apply only to a contract between a health maintenance organization or preferred provider benefit plan issuer and a physician or health care provider that is entered into or renewed 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 the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2009.