

By: Deuell

S.B. No. 900

A BILL TO BE ENTITLED

AN ACT

relating to the collection and use of certain information by health benefit plan issuers; providing administrative penalties.

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

SECTION 1. Subtitle C, Title 6, Insurance Code, is amended by adding Chapter 849 to read as follows:

CHAPTER 849. DATA MINING AND PATTERN RECOGNITION BY HEALTH BENEFIT PLAN ISSUERS

Sec. 849.001. DEFINITION. In this chapter, "health benefit plan issuer" means an insurer or other organization that issues a health benefit plan that 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 or similar coverage document issued by:

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

(2) a fraternal benefit society operating under Chapter 885;

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

(4) a reciprocal exchange operating under Chapter 942;

(5) a health maintenance organization operating under

1 Chapter 843;

2 (6) a multiple employer welfare arrangement that holds
3 a certificate of authority under Chapter 846; or

4 (7) an approved nonprofit health corporation that
5 holds a certificate of authority under Chapter 844.

6 Sec. 849.002. COLLECTION OF INFORMATION CONCERNING DATA
7 MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may
8 require a health benefit plan issuer to report to the department
9 concerning:

10 (1) technologies to be used by the health benefit plan
11 issuer to identify relationships among variables that are used to
12 predict differences in expected losses of covered persons or
13 applicants for coverage or are otherwise used in the activities of
14 regulated entities; and

15 (2) the manner in which the health benefit plan issuer
16 intends to use the relationships derived from the technologies
17 described by Subdivision (1) in:

18 (A) underwriting and creating and defining risk
19 classifications;

20 (B) setting rates and premiums, as applicable;

21 (C) detecting fraudulent claims;

22 (D) identifying subrogation opportunities;

23 (E) improving marketing; or

24 (F) performing other activities identified by
25 the commissioner.

26 (b) In exercising the commissioner's authority under this
27 section, the commissioner may require that health benefit plan

1 issuers report with respect to selected segments of the market and
2 may limit the reporting to specific uses of relationships derived
3 from the technologies.

4 (c) Underwriting guidelines and related information
5 obtained by the commissioner under this section are subject to
6 Section 38.003. Other information obtained under this section is
7 commercial information not subject to the disclosure requirements
8 of Chapter 552, Government Code.

9 Sec. 849.003. ADMINISTRATIVE PENALTIES. If the department
10 determines that a health benefit plan issuer has violated this
11 chapter or a rule adopted under this chapter, the department shall
12 assess administrative penalties against the health benefit plan
13 issuer in the manner provided by Chapter 84. The amount of an
14 administrative penalty imposed under this section shall be based
15 on:

16 (1) the seriousness of the violation, including the
17 nature, circumstances, extent, or gravity of the violation; and

18 (2) the economic harm caused by the violation.

19 Sec. 849.004. REPORT TO LEGISLATURE. The department shall
20 include in its biennial report to the legislature under Section
21 32.022 information concerning the use of relationships derived from
22 the technologies described by Section 849.002 by health benefit
23 plan issuers. The information must include the impact of the use of
24 those relationships on insurance and other coverage to covered
25 persons and applicants for coverage in this state. The report must
26 include, as applicable, recommendations for proposed legislation
27 appropriate to regulate the use of relationships derived from the

1 technologies and means to facilitate availability of insurance in
2 underserved markets.

3 SECTION 2. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.