

By: Klick

H.B. No. 1905

A BILL TO BE ENTITLED

AN ACT

relating to the relationship between physicians or health care providers and health maintenance organizations or preferred provider benefit plans.

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

SECTION 1. Section 843.306, Insurance Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (a-1), (a-2), (b-1), (b-2), (b-3), and (g) to read as follows:

(a) Before terminating a contract with a physician or provider, a health maintenance organization shall provide to the physician or provider:

(1) written notice of:

(A) the health maintenance organization's intent to terminate the physician's or provider's contract;

(B) the physician's or provider's right to request a review under Subsection (b); and

(C) the physician's or provider's right to request the review be expedited under Section 843.307; and

(2) a written explanation of the reasons for termination.

(a-1) In a case involving fraud or malfeasance by a provider, the written notice required by Subsection (a) must include notice of the health maintenance organization's right to suspend the provider's participation in the health maintenance

1 organization network during the review process as provided by
2 Subsection (b-1).

3 (a-2) If a health maintenance organization terminates a
4 contract with a physician or provider, the health maintenance
5 organization shall provide to the physician or provider a written
6 copy of all information on which the health maintenance
7 organization wholly or partly based the termination, including the
8 economic profile of the physician or provider, the standards by
9 which the physician or provider is measured, and the statistics
10 underlying the profile and standards.

11 (b) On request, before the effective date of the termination
12 and within a period not to exceed 60 days, a physician or provider
13 is entitled to a review by an advisory review panel of the health
14 maintenance organization's proposed termination, except in a case
15 involving:

16 (1) imminent harm to patient health;

17 (2) an action by a state medical or dental board,
18 another medical or dental licensing board, or another licensing
19 board or government agency that effectively impairs the physician's
20 or provider's ability to practice medicine, dentistry, or another
21 profession; or

22 (3) fraud or malfeasance by a physician.

23 (b-1) If a provider requests a review under Subsection (b)
24 in a case involving fraud or malfeasance by the provider, the health
25 maintenance organization may suspend the provider's participation
26 in the health maintenance organization network:

27 (1) beginning not earlier than the date notice is

1 provided under Subsection (a); and

2 (2) ending on the earlier of:

3 (A) the 60th day after the date the provider
4 requests the review;

5 (B) the 30th day after the date the provider
6 requests the review be expedited under Section 843.307, if
7 applicable; or

8 (C) the date the health maintenance organization
9 makes a final determination under Subsection (b-2).

10 (b-2) If a health maintenance organization suspends a
11 provider's participation in the health maintenance organization
12 network under Subsection (b-1), the health maintenance
13 organization shall make a final determination to terminate or
14 resume the provider's participation not later than three business
15 days after the date the health maintenance organization receives
16 the recommendation of the advisory review panel. The health
17 maintenance organization shall immediately notify the provider of
18 the determination.

19 (b-3) Review under Subsection (b) must provide an
20 opportunity for the physician or provider to present evidence to
21 the advisory review panel before the panel makes a recommendation.

22 (e) The health maintenance organization [~~on request~~] shall
23 provide to the affected physician or provider a copy of the
24 recommendation of the advisory review panel and the health
25 maintenance organization's determination.

26 (g) A health maintenance organization may not terminate a
27 provider's contract without cause.

1 SECTION 2. Section 843.308, Insurance Code, is amended to
2 read as follows:

3 Sec. 843.308. NOTIFICATION OF PATIENTS OF DESELECTED OR
4 TERMINATED PHYSICIAN OR PROVIDER. (a) Except as provided by
5 Subsection (b), if a physician or provider is deselected or
6 terminated for a reason other than the request of the physician or
7 provider, a health maintenance organization may not notify patients
8 of the deselection or termination until the later of the effective
9 date of the deselection or termination, or, if a review is
10 requested, the date the advisory review panel makes a formal
11 recommendation.

12 (b) If the contract of a physician or provider is deselected
13 or terminated for a reason related to imminent harm, a health
14 maintenance organization may notify patients immediately.

15 SECTION 3. Section 843.309, Insurance Code, is amended to
16 read as follows:

17 Sec. 843.309. CONTRACTS WITH PHYSICIANS OR PROVIDERS:
18 NOTICE TO CERTAIN ENROLLEES OF TERMINATION OF PHYSICIAN OR PROVIDER
19 PARTICIPATION IN PLAN. Subject to Section 843.308, a [A] contract
20 between a health maintenance organization and a physician or
21 provider must provide that reasonable advance notice shall be given
22 to an enrollee of the impending termination from the plan of a
23 physician or provider who is currently treating the enrollee.

24 SECTION 4. Subchapter I, Chapter 843, Insurance Code, is
25 amended by adding Section 843.3095 to read as follows:

26 Sec. 843.3095. WAIVER OF CERTAIN PROVISIONS PROHIBITED.
27 The provisions of this subchapter related to deselection or

1 termination of a contract with a physician or provider may not be
2 waived, voided, or nullified by contract.

3 SECTION 5. Section 1301.053, Insurance Code, is amended to
4 read as follows:

5 Sec. 1301.053. APPEAL RELATING TO DESIGNATION AS PREFERRED
6 PROVIDER. (a) An insurer that does not designate a physician or
7 health care provider [~~practitioner~~] as a preferred provider shall
8 provide a reasonable mechanism for reviewing that action. The
9 review mechanism must incorporate, in an advisory role only, a
10 review panel.

11 (b) A review panel must be composed of at least three
12 individuals selected by the insurer from a list of participating
13 physicians or health care providers [~~practitioners~~] and must
14 include one member who is a physician or health care provider
15 [~~practitioner~~] in the same or similar specialty as the affected
16 physician or health care provider [~~practitioner~~], if available.
17 The physicians or health care providers [~~practitioners~~]
18 contracting with the insurer in the applicable service area shall
19 provide the list of physicians or health care providers
20 [~~practitioners~~] to the insurer.

21 (c) On request, the insurer shall provide to the affected
22 physician or health care provider [~~practitioner~~]:

- 23 (1) the panel's recommendation, if any; and
24 (2) a written explanation of the insurer's
25 determination, if that determination is contrary to the panel's
26 recommendation.

27 SECTION 6. Section 1301.057, Insurance Code, is amended to

1 read as follows:

2 Sec. 1301.057. TERMINATION OF PARTICIPATION; EXPEDITED
3 REVIEW PROCESS. (a) Before terminating a contract with a preferred
4 provider, an insurer shall:

5 (1) provide written notice of:

6 (A) the insurer's intent to terminate the
7 preferred provider's contract;

8 (B) the preferred provider's right to request a
9 review under this section; and

10 (C) the preferred provider's right to request the
11 review be expedited under Subsection (d);

12 (2) provide written reasons for the termination; and

13 (3) [~~(2) if the affected provider is a practitioner,~~]
14 provide, on request, a reasonable review mechanism, except in a
15 case involving:

16 (A) imminent harm to a patient's health;

17 (B) an action by a state medical or other
18 physician licensing board or other government agency that
19 effectively impairs the physician's or health care provider's
20 [~~practitioner's~~] ability to practice medicine, dentistry, or
21 another profession; or

22 (C) fraud or malfeasance by a physician.

23 (a-1) In a case involving fraud or malfeasance by a health
24 care provider, the written notice required by Subsection (a) must
25 include notice of the insurer's right to suspend the health care
26 provider's participation in the preferred provider benefit plan
27 during the review process as provided by Subsection (a-3).

1 (a-2) An insurer may not terminate a health care provider's
2 contract without cause.

3 (a-3) If a health care provider requests a review under
4 Subsection (a) in a case involving fraud or malfeasance by the
5 health care provider, the insurer may suspend the health care
6 provider's participation in the preferred provider benefit plan:

7 (1) beginning not earlier than the date notice is
8 provided under Subsection (a); and

9 (2) ending on the earlier of:

10 (A) the 60th day after the date the health care
11 provider requests the review;

12 (B) the 30th day after the date the health care
13 provider requests the review be expedited, if applicable; or

14 (C) the date the insurer makes a final
15 determination under Subsection (a-4).

16 (a-4) If an insurer suspends a health care provider's
17 participation in the preferred provider benefit plan under
18 Subsection (a-3), the insurer shall make a final determination to
19 terminate or resume the health care provider's participation not
20 later than three business days after the date the insurer receives
21 the recommendation of the review panel described by Subsection (b).
22 The insurer shall immediately notify the health care provider of
23 the insurer's determination.

24 (b) The review mechanism described by Subsection (a)(3)
25 [(a)(2)] must incorporate, in an advisory role only, a review panel
26 selected in the manner described by Section [1301.053\(b\)](#) and must be
27 completed within a period not to exceed 60 days.

1 (b-1) Review under Subsection (a)(3) must provide an
2 opportunity for the affected physician or health care provider to
3 present evidence to the review panel before the panel makes a
4 recommendation.

5 (c) The insurer shall provide to the affected physician or
6 health care provider [~~practitioner~~]:

7 (1) the review panel's recommendation, if any; and

8 (2) [~~on request,~~] a written explanation of the
9 insurer's determination, if that determination is contrary to the
10 panel's recommendation.

11 (d) On request, an insurer shall provide to a physician or
12 health care provider [~~practitioner~~] whose participation in a
13 preferred provider benefit plan is being terminated:

14 (1) an expedited review conducted in accordance with a
15 process that complies with rules established by the commissioner;
16 and

17 (2) all information on which the insurer wholly or
18 partly based the termination, including the economic profile of the
19 preferred provider, the standards by which the physician or health
20 care provider is measured, and the statistics underlying the
21 profile and standards.

22 (e) The provisions of this section may not be waived,
23 voided, or nullified by contract.

24 SECTION 7. Section 1301.160, Insurance Code, is amended by
25 amending Subsections (a) and (c) and adding Subsection (d) to read
26 as follows:

27 (a) If a physician's or health care provider's

1 ~~[practitioner's]~~ participation in a preferred provider benefit
2 plan is terminated for a reason other than at the physician's or
3 health care provider's ~~[practitioner's]~~ request, an insurer may not
4 notify insureds of the termination until the later of:

- 5 (1) the effective date of the termination; or
6 (2) if a review is requested, the time at which a
7 review panel makes a formal recommendation regarding the
8 termination.

9 (c) If a physician's or health care provider's
10 ~~[practitioner's]~~ participation in a preferred provider benefit
11 plan is terminated for reasons related to imminent harm, an insurer
12 may notify insureds immediately.

13 (d) The provisions of this section may not be waived,
14 voided, or nullified by contract.

15 SECTION 8. The changes in law made by this Act apply only to
16 a contract entered into, amended, or renewed on or after the
17 effective date of this Act. A contract entered into, amended, or
18 renewed before the effective date of this Act is governed by the law
19 as it existed immediately before the effective date of this Act, and
20 that law is continued in effect for that purpose.

21 SECTION 9. This Act takes effect September 1, 2019.