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H.B. No. 1914

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the relationship between health maintenance  
3 organizations and preferred provider benefit plans and physicians  
4 and health care providers, including prompt payment of the claims  
5 of certain physicians and health care providers.

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

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

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

13 (1) written notice of:

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

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

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

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

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

1 suspend the provider's participation in the health maintenance  
2 organization network during the review process as provided by  
3 Subsection (b-1).

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

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

18 (1) imminent harm to patient health;

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

24 (3) fraud or malfeasance by a physician.

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

1 in the health maintenance organization network:

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

4 (2) ending on the earlier of:

5 (A) the 60th day after the date the provider  
6 requests the review;

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

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

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

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

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

1        (g) A health maintenance organization may not terminate a  
2 provider's contract unless the provider fails to comply with a  
3 material term of the contract.

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

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

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

18        SECTION 3. Section 843.309, Insurance Code, is amended to  
19 read as follows:

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

27        SECTION 4. Subchapter I, Chapter 843, Insurance Code, is

1 amended by adding Section 843.3095 to read as follows:

2 Sec. 843.3095. WAIVER OF CERTAIN PROVISIONS PROHIBITED.

3 The provisions of this subchapter related to deselection or  
4 termination of a contract with a physician or provider may not be  
5 waived, voided, or nullified by contract.

6 SECTION 5. Section 843.351, Insurance Code, is amended to  
7 read as follows:

8 Sec. 843.351. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND  
9 PROVIDERS. (a) The provisions of this subchapter relating to prompt  
10 payment by a health maintenance organization of a physician or  
11 provider, including Section 843.342, and to verification of health  
12 care services apply to a physician or provider who:

13 (1) is not included in the health maintenance  
14 organization delivery network; and

15 (2) provides to an enrollee:

16 (A) care related to an emergency or its attendant  
17 episode of care as required by state or federal law; or

18 (B) specialty or other health care services at  
19 the request of the health maintenance organization or a physician  
20 or provider who is included in the health maintenance organization  
21 delivery network because the services are not reasonably available  
22 within the network.

23 (b) For purposes of calculating a penalty under Section  
24 843.342 related to a claim by a physician or provider described by  
25 Subsection (a), the contracted rate for the health care service  
26 provided by the physician or provider is the usual and customary  
27 rate for the service in the geographic area in which the service is

1 provided.

2 SECTION 6. Section 1301.053, Insurance Code, is amended to  
3 read as follows:

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

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

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

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

26 SECTION 7. Section 1301.057, Insurance Code, is amended to  
27 read as follows:

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

4           (1) provide written notice of:

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

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

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

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

12           (3) [~~(2) if the affected provider is a practitioner,~~]  
13 provide, on request, a reasonable review mechanism, except in a  
14 case involving:

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

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

21                   (C) fraud or malfeasance by a physician.

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

27           (a-2) An insurer may not terminate a health care provider's

1 contract unless the provider fails to comply with a material term of  
2 the contract.

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 8. Section [1301.069](#), Insurance Code, is amended to  
25 read as follows:

26        Sec. 1301.069. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND  
27 HEALTH CARE PROVIDERS. (a) The provisions of this chapter relating

1 to prompt payment by an insurer of a physician or health care  
2 provider, including Section 1301.137, and to verification of  
3 medical care or health care services apply to a physician or  
4 provider who:

5 (1) is not a preferred provider included in the  
6 preferred provider network; and

7 (2) provides to an insured:

8 (A) care related to an emergency or its attendant  
9 episode of care as required by state or federal law; or

10 (B) specialty or other medical care or health  
11 care services at the request of the insurer or a preferred provider  
12 because the services are not reasonably available from a preferred  
13 provider who is included in the preferred delivery network.

14 (b) For purposes of calculating a penalty under Section  
15 1301.137 related to a claim by a physician or health care provider  
16 described by Subsection (a) or Section 1301.0053, the contracted  
17 rate for the health care service provided by the physician or  
18 provider is the usual and customary rate for the service in the  
19 geographic area in which the service is provided.

20 SECTION 9. Section 1301.160, Insurance Code, is amended by  
21 amending Subsections (a) and (c) and adding Subsection (d) to read  
22 as follows:

23 (a) If a physician's or health care provider's  
24 [~~practitioner's~~] participation in a preferred provider benefit  
25 plan is terminated for a reason other than at the physician's or  
26 health care provider's [~~practitioner's~~] request, an insurer may not  
27 notify insureds of the termination until the later of:

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

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

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

11           SECTION 10. (a) Except as provided by Subsection (b) of this  
12 section, the changes in law made by this Act apply only to a  
13 contract entered into, amended, or renewed on or after the  
14 effective date of this Act. A contract entered into, amended, or  
15 renewed before the effective date of this Act is governed by the law  
16 as it existed immediately before the effective date of this Act, and  
17 that law is continued in effect for that purpose.

18           (b) Sections [843.351](#) and [1301.069](#), Insurance Code, as  
19 amended by this Act, apply only to a claim filed on or after the  
20 effective date of this Act.

21           SECTION 11. This Act takes effect September 1, 2019.