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By:  Sanford H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

relating to the relationship between managed care plans and optometrists, therapeutic optometrists, and ophthalmologists.

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

SECTION 1.  Sections 1451.153(a) and (c), Insurance Code, are amended to read as follows:

(a)  A managed care plan may not:

(1)  discriminate against a health care practitioner because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(2)  restrict or discourage a plan participant from obtaining covered vision or medical eye care services or procedures from a participating optometrist, therapeutic optometrist, or ophthalmologist solely because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(3)  restrict or discourage a plan participant from obtaining a covered vision or medical eye care service or procedure from a participating optometrist, therapeutic optometrist, or ophthalmologist because of the physical location or lessor affiliation of the optometrist's, therapeutic optometrist's, or ophthalmologist's practice;

(4)  exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the optometrist, therapeutic optometrist, or ophthalmologist does not have medical staff privileges at a hospital or at a particular hospital;

(5)  exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because of the physical location or lessor affiliation of the optometrist's, therapeutic optometrist's, or ophthalmologist's practice;

(6)  identify a participating optometrist, therapeutic optometrist, or ophthalmologist in a different category from other participating health care practitioners based on a characteristic other than professional degree;

(7) [~~(4)~~]  exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the services or procedures provided by the optometrist, therapeutic optometrist, or ophthalmologist may be provided by another type of health care practitioner; [~~or~~]

(8) [~~(5)~~]  as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's medical panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included; or

(9)  as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's vision panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular medical panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included.

(c)  For the purposes of Subsections (a)(8) and (9) [~~Subsection (a)(5)~~], "medical panel" and "vision panel" have the meanings assigned by Section 1451.154(a).

SECTION 2.  Section 1451.154(c), Insurance Code, is amended to read as follows:

(c)  A therapeutic optometrist who is included in a managed care plan's medical panels under Subsection (b) must:

(1)  abide by the terms and conditions of the managed care plan;

(2)  satisfy the managed care plan's credentialing standards for therapeutic optometrists; and

(3)  provide proof that the Texas Optometry Board considers the therapeutic optometrist's license to practice therapeutic optometry to be in good standing[~~; and~~

[~~(4)  comply with the requirements of the Controlled Substances Registration Program operated by the Department of Public Safety~~].

SECTION 3.  Section 1451.155(a), Insurance Code, is amended by adding Subdivision (3) to read as follows:

(3)  "Chargeback" means a dollar amount, administrative fee, processing fee, surcharge, or item of value that reduces or offsets the patient responsibility or provider reimbursement for a covered product or service.

SECTION 4.  Section 1451.155, Insurance Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

(b)  A contract between a managed care plan [~~an insurer~~] and an optometrist or therapeutic optometrist may not limit the fee the optometrist or therapeutic optometrist may charge for a product or service that is not a covered product or service.

(c)  A contract between a managed care plan [~~an insurer~~] and an optometrist or therapeutic optometrist may not require a discount on a product or service that is not a covered product or service.

(d)  A contract between a managed care plan and an optometrist or therapeutic optometrist may not provide for a chargeback to the optometrist or therapeutic optometrist if the chargeback is for a covered product or service that is not supplied by the managed care plan.

(e)  A contract between a managed care plan and an optometrist or therapeutic optometrist may not provide for a reimbursement fee schedule for a covered product or service that is different from the fee schedule applicable to another optometrist or therapeutic optometrist because of the optometrist's or therapeutic optometrist's choice of optical laboratory or other source or supplier of services or materials.

SECTION 5.  Section 1451.156(a), Insurance Code, is amended to read as follows:

(a)  A managed care plan, as described by Section 1451.152(a), may not directly or indirectly:

(1)  control or attempt to control the professional judgment, manner of practice, or practice of an optometrist or therapeutic optometrist;

(2)  employ an optometrist or therapeutic optometrist to provide a vision care product or service as defined by Section 1451.155;

(3)  pay an optometrist or therapeutic optometrist for a service not provided;

(4)  reimburse an optometrist or therapeutic optometrist a different amount for a covered product or service as defined by Section 1451.155(a) because of an optometrist's or therapeutic optometrist's choice of optical laboratory or other source or supplier of services or materials;

(5)  restrict or limit an optometrist's or therapeutic optometrist's choice of sources or suppliers of services or materials, including optical laboratories used by the optometrist or therapeutic optometrist to provide services or materials to a patient; [~~or~~]

(6)  restrict or limit an optometrist's or therapeutic optometrist's choice of electronic health record software, electronic medical record software, or practice management software;

(7)  restrict or limit an optometrist's or therapeutic optometrist's choice of third-party claim-filing service, billing service, or electronic data interchange clearinghouse company;

(8)  restrict or limit an optometrist's or therapeutic optometrist's access to a patient's complete plan coverage information, including in-network and out-of-network coverage details; or

(9) [~~(5)~~]  require an optometrist or therapeutic optometrist to disclose a patient's confidential or protected health information unless the disclosure is authorized by the patient or permitted without authorization under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) or under Section 602.053.

SECTION 6.  The following sections of the Insurance Code are repealed:

(1)  Section 1451.154(d); and

(2)  Section 1451.156(d).

SECTION 7.  The changes in law made by this Act apply only to a contract between a managed care plan issuer and an optometrist, therapeutic optometrist, or ophthalmologist entered into or renewed, or a managed care plan delivered, issued for delivery, or renewed, on or after January 1, 2022. A contract entered into or renewed, or a plan delivered, issued for delivery, or renewed, before January 1, 2022, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 8.  This Act takes effect September 1, 2021.