

By: Sanford

H.B. No. 2960

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (a) A managed care plan may not:

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

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

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

22 (4) exclude an optometrist, therapeutic optometrist,
23 or ophthalmologist as a participating practitioner in the plan
24 because the optometrist, therapeutic optometrist, or

1 ophthalmologist does not have medical staff privileges at a
2 hospital or at a particular hospital;

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

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

12 (7) [~~4~~] exclude an optometrist, therapeutic
13 optometrist, or ophthalmologist as a participating practitioner in
14 the plan because the services or procedures provided by the
15 optometrist, therapeutic optometrist, or ophthalmologist may be
16 provided by another type of health care practitioner; [~~or~~]

17 (8) [~~5~~] as a condition for a therapeutic optometrist
18 or ophthalmologist to be included in one or more of the plan's
19 medical panels, require the therapeutic optometrist or
20 ophthalmologist to be included in, or to accept the terms of payment
21 under or for, a particular vision panel in which the therapeutic
22 optometrist or ophthalmologist does not otherwise wish to be
23 included; or

24 (9) as a condition for a therapeutic optometrist or
25 ophthalmologist to be included in one or more of the plan's vision
26 panels, require the therapeutic optometrist or ophthalmologist to
27 be included in, or to accept the terms of payment under or for, a

1 particular medical panel in which the therapeutic optometrist or
2 ophthalmologist does not otherwise wish to be included.

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

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

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

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

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

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

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

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

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

26 SECTION 4. Section 1451.155, Insurance Code, is amended by
27 amending Subsections (b) and (c) and adding Subsections (d) and (e)

1 to read as follows:

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

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

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

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

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

24 (a) A managed care plan, as described by Section
25 1451.152(a), may not directly or indirectly:

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

1 therapeutic optometrist;

2 (2) employ an optometrist or therapeutic optometrist
3 to provide a vision care product or service as defined by Section
4 1451.155;

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

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

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

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

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

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

1 (9) [~~(5)~~] require an optometrist or therapeutic
2 optometrist to disclose a patient's confidential or protected
3 health information unless the disclosure is authorized by the
4 patient or permitted without authorization under the Health
5 Insurance Portability and Accountability Act of 1996 (42 U.S.C.
6 Section 1320d et seq.) or under Section [602.053](#).

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

9 (1) Section [1451.154](#)(d); and

10 (2) Section [1451.156](#)(d).

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

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