

## **BILL ANALYSIS**

Senate Research Center  
88R11397 MEW-F

H.B. 711  
By: Frank et al. (Kolkhorst)  
Health & Human Services  
5/5/2023  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Competition is a necessary component of a functioning healthcare market, incentivizing health plans, and providers to offer the highest quality care for the most affordable price. The consolidation resulting from vertical integration is dismantling anti-competitive practices. By not prohibiting certain contract clauses, Texas will allow medical corporations to monopolize healthcare without any consequences. The consumer is always the victim when competition is removed.

H.B. 711 aims to address the rising costs of healthcare due to consolidation in the healthcare market. H.B. 711 guarantees market competition, through contracts, that decrease healthcare costs while improving provider quality.

H.B. 711 would amend the Insurance Code to prohibit insurance companies and providers from entering into provider network contracts with anti-competitive clauses.

The prohibited clauses are anti-steering clauses, which restrict insurers from encouraging enrollees to get care from competitors of the provider; anti-tiering clauses, which restrict insurers from having a tiered network plan or placing provider members on different tiers; gag clauses, which restrict insurers or providers from disclosing price or quality information; and most-favored-nation clauses, which restrict insurers or providers from giving better rates to other insurers or providers.

H.B. 711 amends current law relating to certain contract provisions and conduct affecting health care provider networks.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1458.001, Insurance Code, by adding Subdivisions (1-a), (1-b), (4-a), (4-b), and (5-a) to define "anti-steering clause," "anti-tiering clause," "gag clause," "general contracting entity," and "most favored nation clause."

SECTION 2. Amends Section 1458.101, Insurance Code, by adding Subsections (g), (h), and (i), as follows:

(g) Prohibits a provider from:

- (1) offering to a general contracting entity a written provider network contract that includes an anti-steering, anti-tiering, gag, or most favored nation clause;
- (2) entering into a provider network contract that includes an anti-steering, anti-tiering, gag, or most favored nation clause; or

(3) amending or renewing an existing provider network contract previously entered into with a general contracting entity so that the contract as amended or renewed adds or retains an anti-steering, anti-tiering, gag, or most favored nation clause.

(h) Provides that any provision in a provider network contract that is an anti-steering, anti-tiering, gag, or most favored nation clause is void and unenforceable. Provides that the remaining provisions in the provider network contract remain in effect and are enforceable.

(i) Provides that a health benefit plan issuer that encourages an enrollee to obtain a health care service from a particular provider, including offering incentives to encourage enrollees to use specific providers, or that introduces or modifies a tiered network plan or assigns providers into tiers has a fiduciary duty to the enrollee or policyholder to engage in that conduct only for the primary benefit of the enrollee or policyholder.

SECTION 3. Effective date: upon passage or September 1, 2023.