

By: Harris of Williamson

H.B. No. 3351

A BILL TO BE ENTITLED

AN ACT

relating to standards required for certain rankings of physicians
by health benefit plan issuers.

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

SECTION 1. Section 1460.003, Insurance Code, is amended by
amending Subsection (a) and adding Subsection (a-1) to read as
follows:

(a) A health benefit plan issuer, including a subsidiary or
affiliate, may not rank physicians or ~~or~~ classify physicians into
tiers based on performance~~[, or publish physician-specific
information that includes rankings, tiers, ratings, or other
comparisons of a physician's performance against standards,
measures, or other physicians,~~] unless:

(1) the standards used by the health benefit plan
issuer to rank or classify are propagated or developed by an
organization designated by the commissioner through rules adopted
under Section 1460.005;

(2) the ranking, comparison, or evaluation:

(A) is disclosed to each affected physician at
least 45 days before the date the ranking, comparison, or
evaluation is released, published, or distributed to enrollees by
the health benefit plan issuer; and

(B) identifies which products or networks
offered by the health benefit plan issuer the ranking, comparison,

1 or evaluation will be used for; and

2 (3) each affected physician is given an easy-to-use
3 process to identify discrepancies between the standards and the
4 ranking, comparison, or evaluation as propagated by the health
5 benefit plan issuer ~~[the standards used by the health benefit plan~~
6 ~~issuer conform to nationally recognized standards and guidelines as~~
7 ~~required by rules adopted under Section 1460.005;~~

8 ~~[(2) the standards and measurements to be used by the~~
9 ~~health benefit plan issuer are disclosed to each affected physician~~
10 ~~before any evaluation period used by the health benefit plan~~
11 ~~issuer; and~~

12 ~~[(3) each affected physician is afforded, before any~~
13 ~~publication or other public dissemination, an opportunity to~~
14 ~~dispute the ranking or classification through a process that, at a~~
15 ~~minimum, includes due process protections that conform to the~~
16 ~~following protections:~~

17 ~~[(A) the health benefit plan issuer provides at~~
18 ~~least 45 days' written notice to the physician of the proposed~~
19 ~~rating, ranking, tiering, or comparison, including the~~
20 ~~methodologies, data, and all other information utilized by the~~
21 ~~health benefit plan issuer in its rating, tiering, ranking, or~~
22 ~~comparison decision;~~

23 ~~[(B) in addition to any written fair~~
24 ~~reconsideration process, the health benefit plan issuer, upon a~~
25 ~~request for review that is made within 30 days of receiving the~~
26 ~~notice under Paragraph (A), provides a fair reconsideration~~
27 ~~proceeding, at the physician's option:~~

1 ~~[(i) by teleconference, at an agreed upon~~
2 ~~time; or~~

3 ~~[(ii) in person, at an agreed upon time or~~
4 ~~between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday,~~

5 ~~[(C) the physician has the right to provide~~
6 ~~information at a requested fair reconsideration proceeding for~~
7 ~~determination by a decision-maker, have a representative~~
8 ~~participate in the fair reconsideration proceeding, and submit a~~
9 ~~written statement at the conclusion of the fair reconsideration~~
10 ~~proceeding; and~~

11 ~~[(D) the health benefit plan issuer provides a~~
12 ~~written communication of the outcome of a fair reconsideration~~
13 ~~proceeding prior to any publication or dissemination of the rating,~~
14 ~~ranking, tiering, or comparison. The written communication must~~
15 ~~include the specific reasons for the final decision].~~

16 (a-1) If a physician submits information to a health benefit
17 plan issuer under Subsection (a)(3) sufficient to establish a
18 discrepancy, the health benefit plan issuer must remedy the
19 discrepancy by the later of:

20 (1) publication; or

21 (2) the 30th day after the date the health benefit plan
22 issuer receives the information.

23 SECTION 2. Section 1460.005(c), Insurance Code, is amended
24 to read as follows:

25 (c) In adopting rules under this section, the commissioner
26 may only designate ~~[shall consider the standards, guidelines, and~~
27 ~~measures prescribed by nationally recognized]~~ organizations that

1 meet the following requirements:

2 (1) the prescribing organization is bona fide and
3 unbiased toward or against any medical provider;

4 (2) the standards to be used in rankings, comparisons,
5 or evaluations:

6 (A) are nationally recognized, or based on
7 expert-provider consensus or leading clinical evidence-based
8 scholarship;

9 (B) have a publicly transparent methodology; and

10 (C) if based on clinical outcomes, are
11 risk-adjusted; and

12 (3) the prescribing organization has an easy-to-use
13 process by which a medical provider may report data, evidentiary,
14 factual, or mathematical errors for prompt investigation and, if
15 appropriate, correction ~~[establish or promote guidelines and~~
16 ~~performance measures emphasizing quality of health care, including~~
17 ~~the National Quality Forum and the AQA Alliance. If neither the~~
18 ~~National Quality Forum nor the AQA Alliance has established~~
19 ~~standards or guidelines regarding an issue, the commissioner shall~~
20 ~~consider the standards, guidelines, and measures prescribed by the~~
21 ~~National Committee on Quality Assurance and other similar national~~
22 ~~organizations. If neither the National Quality Forum, nor the AQA~~
23 ~~Alliance, nor other national organizations have established~~
24 ~~standards or guidelines regarding an issue, the commissioner shall~~
25 ~~consider standards, guidelines, and measures based on other bona~~
26 ~~fide nationally recognized guidelines, expert-based physician~~
27 ~~consensus quality standards, or leading objective clinical~~

1 ~~evidence and scholarship]~~.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2023.