BILL ANALYSIS

C.S.H.B. 1905
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that pharmacies and other health care providers have insufficient due process protections when terminated from an insurers health care network, especially when the health care provider is accused of fraud or malfeasance by an insurer. Reports indicate that insurers often terminate pharmacies and other providers from health plans for no discernable reason or as a result of such accusations without any official review or finding. C.S.H.B. 1905 seeks to address this issue by providing for the review of certain allegations of fraud or malfeasance.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1905 amends the Insurance Code to require a health maintenance organization (HMO) or an insurer, before terminating a contract with a physician or applicable provider, to provide written notice of the following:

- the HMO's or insurer's intent to terminate the physician's or provider's contract;
- the physician's or provider's right to request an applicable advisory panel's review of the proposed termination; and
- the physician's or provider's right to request the expedited review process applicable to the HMO or insurer.

C.S.H.B. 1905, with respect to a case involving fraud or malfeasance by an applicable provider:

- authorizes the HMO or insurer, if the provider requests a review, to suspend the provider's participation in the HMO network or in the preferred provider benefit plan, as applicable;
- requires the notice of the intent to terminate a contract to include notice of the HMO's or insurer's right to suspend the provider's participation in the network or plan during the review process; and
- specifies that the applicable cases not subject to advisory panel review before termination are those cases involving fraud or malfeasance by a physician.

C.S.H.B. 1905 requires the applicable advisory panel reviews to provide an opportunity for the physician or provider to present evidence to the panel before the panel makes a recommendation. The bill establishes the period for a suspension and the deadline by which the HMO or insurer must make a final determination to terminate or resume the provider's participation and requires the HMO or insurer to immediately notify the provider of that final determination.

C.S.H.B. 1905 revises the provision requiring an insurer to provide a copy of a review panel recommendation or explanation of the insurer's determination regarding termination of participation that is contrary to a panel's recommendation to an affected physician or provider by removing the specification that such provision occurs on request.

C.S.H.B. 1905 requires an HMO that terminates a contract with a physician or provider to provide to the physician or provider, on request of the physician or provider, a written copy of all information on which the HMO wholly or partly based the termination, including the economic profile of the physician or provider, the standards by which the physician or provider is measured, and the statistics underlying the profile and standards. The bill prohibits an HMO or an insurer from terminating an applicable provider's contract unless the provider fails to comply with a material term of the contract.

C.S.H.B. 1905 clarifies that an HMO may notify patients immediately if a physician or provider is terminated for a reason related to imminent harm and, with respect to provisions establishing the timing of the notice to patients by an HMO of a physician's or provider's deselection that is for a reason other than a deselection requested by the physician or provider, revises those provisions:

- to make them also applicable to contract terminations; and
- to provide that, instead of not notifying patients until the effective date of the deselection or termination, an HMO may not notify patients of the deselection or termination until the later of the deselection's or termination's effective date or, if a review is requested, the date the advisory review panel makes a formal recommendation.

C.S.H.B. 1905, with respect to the prohibition against an insurer notifying insureds of a physician's or provider's termination of participation in a benefit plan until the later of the effective date of the termination or the time at which a review panel makes a formal recommendation regarding the termination, clarifies that the date applicable to the formal recommendation applies to a review that was requested by the physician or provider.

C.S.H.B. 1905 establishes that provisions of the Texas Health Maintenance Organization Act related to deselection or termination of a contract with a physician or provider and provisions relating to the termination of physician or provider participation in preferred provider benefit plans and the expedited review process may not be waived, voided, or nullified by contract.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1905 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes the requirement for an HMO that terminates a contract with a physician or provider to provide to the physician or provider a written copy of all information on which the HMO based the termination applicable only if the physician or provider requests such

information.

The substitute does not include a prohibition against an HMO or insurer terminating a provider's contract without cause, but the substitute prohibits an HMO or insurer from terminating a provider's contract unless the provider fails to comply with a material term of the contract.