SUBJECT: Certifying certain nonprofit health corporations

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Smithee, Duncan, Averitt, Counts, De La Garza, Dutton, G. Lewis, Shields

0 nays

1 absent — Driver

WITNESSES: For — Bob Glasgow, John D. Box, M. Derick Boldt, M.D., Alliance of Non-Profit Health Care Corporations; John Holcomb, M.D.; Allen Horne, Texas Hospital Association;

Against — none

On — Nancy Sims, Texas Business Group on Health; Jeff Kloster, PCA Health Plans of Texas; Connie Barron, Texas Medical Association

BACKGROUND: The Medical Practice Act, sec. 5.01(a) requires the board of Medical Examiners to certify any nonprofit health organization formed solely by physicians actively engaged in the practice of medicine. These corporations are commonly referred to as 5.01(a) corporations.

DIGEST: CSHB 3111 would allow nonprofit health corporations certified under the Medical Practice Act, sec. 5.01 (a) (often called 5.01(a) corporations) to arrange for or provide a prepaid health care plan if the corporation obtains a certificate of authority from the department of insurance. The act would take effect September 1, 1995, and certificates of authority could be issued after April 1, 1996.

Qualifications for certification

The commissioner could issue a certificate of authority only to a corporation that met each requirement of a health maintenance organization (HMO) and was accredited by the National Committee on Quality

Assurance, the Joint Commission on Accreditation of Healthcare Organizations or an accrediting body recognized by the commissioner.

Powers and duties

A certificate holder would hold all the powers and duties of an HMO under Texas insurance laws and would be subject to the same regulation and enforcement.

An applicant or a certificate holder would be treated in the same manner as a single-service HMO if only medical care was provided through an employer-provided ERISA plan (an employee benefit plan regulated by the federal government).

Advisory committee and rulemaking

The commissioner would be required to appoint an advisory committee by September 16, 1995, to be composed of five representatives of 5.01(a) corporations and four public members (two representing employers). The committee would be required to recommend necessary rules to implement this act by October 16, 1995.

The commissioner would be required to consider the recommendations of the advisory committee and adopt rules by January 1, 1996.

SUPPORTERS SAY:

CSHB 3111 would enact much needed regulation over 5.01(a) corporations that contract with employers to provide health care services on a prepaid or capitated basis. The state currently has no explicit authority to monitor or regulate these corporations to ensure that they are financially capable of assuming the obligation and risk they contract for.

By linking regulation to the existing HMO Act, 5.01(a) corporations that provide prepaid or capitated coverage would be operating on a competitive basis with HMOs, and employers and employees would be assured of the same high standards of care and protections that HMOs offer. It would also minimize state costs of regulation and enforcement.

Creating a separate regulatory section in the Insurance Code for these entities would recognize the distinct nature of 5.01(a) corporations and allow the state to adjust regulation and enforcement as needed in the changing health care market.

OPPONENTS SAY:

CSHB 3111 is not needed and would add potential confusions and contradictions to the regulation of managed care plans. There is no need for a separate section in the Insurance Code. Corporations that offer health care services on a prepaid or capitated basis that need to meet HMO requirements are in every sense of the word HMOs and should be regulated directly under the HMO Act.

Having a separate section in the code could confuse the actual obligations and requirements of 5.01(a) corporations when changes are made to the HMO Act but not referenced in this act or vice versa.

The bill would also cause an additional cost to the state. It has been estimated that of the 126 corporations, 72 would seek certification, costing the state $734,804 in fiscal 1996-97 and $597,872 in fiscal 1998-99.

OTHER OPPONENTS SAY:

These 5.01(a) corporations are distinct health care delivery entities and should not be linked to the HMO Act if they provide capitated or prepaid health care services. The HMO requirements are too stringent for the small share of the health care market and the degree of risk that these corporations assume.

Placing HMO requirements on 5.01(a) corporations could limit the availability of an employer's health benefit alternative by limiting the number of corporations able and willing to meet HMO requirements.

NOTES:

The original version would have established regulation for 5.01(a) corporations distinct from HMO regulation with specified provisions for certification, solvency and financial security, contract and reporting requirements, corporation power and duties and applicable penalties.