

- SUBJECT:** Managed care plan pharmaceutical services
- COMMITTEE:** Insurance — favorable, with amendment
- VOTE:** 5 ayes — Smithee, De La Garza, Dutton, G. Lewis, Shields
2 nays — Duncan, Averitt
2 absent — Counts, Driver
- SENATE VOTE:** On final passage, May 3 — 25-3 (Bivins, Shapiro, Zaffirini)
- WITNESSES:** (*On House companion, HB 1455*):
- For — Karen Kenney, C. Dean Davis, Texas Pharmacy Association; John H. Meyers; Mary Bell; Willie Earlie, Jr.; Bill Pittman, Texas Independent Pharmacists; Lonnie Floyd Hollingsworth; Jeannie B. Ware.
- Against — Bruce Weiss, M.D., M.P.H., Jeff Kloster, PCA Health Plans of Texas; William Phillips, John Kajander, John Rodrigue, Texas Business Group on Health; Beverly Alexander; Eileen Campbell, Marathon Oil Company; Vince Contorno, Texas HMO Association; Janet Stokes, Texas Association of Health Underwriters; Julie Moore; Dinah Welsh, Texas Association of Business and Chambers of Commerce; Bruce Meador, Texas Instruments; David Sebrec, DuPont.
- On — Rhonda Myron, Texas Department of Insurance
- BACKGROUND:** The Insurance Code prohibits a health insurance policy from limiting beneficiaries' choice of pharmacy or requiring beneficiaries to obtain a specific dosage supply of pharmaceutical products. Insurers also are prohibited from denying a pharmacist or pharmacy the right to participate under the policy if various terms are met.
- DIGEST:** SB 628, as amended, would extend the Insurance Code prohibitions on limiting pharmacy selection and imposing dosage supply requirements to health maintenance organizations and other managed care plans in counties with a population of 40,000 or less.

SB 628 would also prohibit health maintenance organizations in affected counties from denying pharmacists and pharmacies the right to participate in a plan if they agree to meet the plan's terms and requirements. Pharmacy application and recertification fees would have to be reasonable and uniformly charged to each pharmacy under contract with the plan.

Managed care plans would not be required to provide pharmaceutical services. The Scott and White Health Plan would be exempt from provisions of the bill.

SB 628 would take effect September 1, 1995, and apply to coverage delivered, issued or renewed on or after January 1, 1996.

**SUPPORTERS
SAY:**

SB 628 would ensure that rural residents who enroll in a health maintenance organization have adequate access to pharmacy services. Rural communities lack the multitude of competing pharmacies that urban and suburban counties have. The exclusion of a rural pharmacist from plan participation can destroy longstanding pharmacist-patient relationships and a pharmacist's business and can force enrollees to travel miles from home to obtain pharmacy services.

SB 628 managed care plan requirements are identical to existing requirements on traditional health insurance policies (that often offer preferred provider plans and other kinds of managed care) and therefore would break no new ground. The impact on HMOs would be minimal because of the committee amendment that would restrict the application of these requirements to service areas located in sparsely populated counties.

"Any willing pharmacist" provisions (provisions requiring HMOs to contract with any pharmacist willing to agree to HMO terms) do not have the same high cost implications as do other "any willing provider" provisions. Unlike physicians and other health care professionals, pharmacists do not order or direct patient services and treatments, and therefore by themselves cannot generate higher HMO expenditures. Pharmacists simply dispense what has been ordered by a physician. Selective contracting and other controls are only appropriate to control physician and other providers' services.

The intention behind the bill is *not* to allow enrollees to go outside of the plan to any pharmacist, but to allow any willing pharmacist to contract with an HMO plan.

Pharmacies also need special protections because in many communities chain drugstores are moving in and gaining the HMO contract because they can negotiate better rates than the smaller independent stores. Smaller independent drugstores usually offer more personalized service and attention to their clients and are at risk of going out of business.

"Any willing pharmacist" measures in other states have not greatly inflated costs. HMOs are usually large enough to continue negotiating lower rates.

OPPONENTS
SAY:

SB 628 is unnecessary and would dramatically increase HMO costs and therefore employer monthly premium costs. Even with the committee amendment on county size the bill would still apply to 191 out of 254 Texas counties.

Rural pharmacists do not need special protections. They are generally included in HMO plans due to the scarcity of rural pharmacists and the need to provide pharmacy services to enrollees.

The real cost-driver in this bill would be the freedom-of-choice requirements. Plan enrollees would be allowed choose any pharmacy or pharmacist they wanted, even those outside of the plan that have no obligation to meet plan requirements or rates. HMOs would be forced to pay retail costs of pharmaceuticals, which would drive up plan rates for everyone. This problem would be compounded if SB 628 was applied to all counties. If applied statewide, the bill's combined "any willing pharmacist" and "freedom of choice" requirements would gut the cost-savings features of an HMO plan.

The "any willing pharmacist" provisions alone would increase costs. Selective contracting is a free-market principle and the foundation of managed care cost-savings. HMOs would have little negotiating power to select the most qualified pharmacies and to negotiate low drug and dispensing prices if they were required to contract with any pharmacist who wanted to participate.

Increased drug costs would motivate employers to drop health benefit coverage for drugs. Plan applicants are informed of participating pharmacies in the plan and are usually aware that in a health maintenance organization pharmacy choices can be limited. Legislation is proposed this session to also improve applicant awareness of plan providers and benefits.

OTHER
OPPONENTS
SAY:

SB 628 should include pharmacists and pharmacies statewide, not just in the rural areas. Urban and suburban enrollees also often have to switch pharmacies when they switch health care plans or benefits, ending longstanding pharmacist relationships and using a plan pharmacy that does not offer quality customer services.

Pharmacy services are getting special treatment not granted to other health care professionals under HMO plans. "Any willing provider" and patient freedom-of-choice requirements should also apply to other providers such as doctors, chiropractors and psychologists whose patients experience the same kind of hardships the bill addresses when enrolling in a new managed care plan.

NOTES:

The committee amendment would limit application of the bill to health maintenance organization service areas in counties of fewer than 40,000 residents.