

SUBJECT: HMO contracts with physicians and other health care providers

COMMITTEE: Insurance — favorable, with amendments

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Jeff Kloster, Texas HMO Association

Against — None

DIGEST: HB 812, as amended, would prohibit health maintenance organizations (HMOs) from restricting the ability of a physician, dentist or other health care provider to communicate with an enrollee about:

- coverage under the health care plan;
- any subject related to medical, dental or other health care services, including treatment options that are not provided under the health care plan; or
- termination of the provider's contract by the HMO or that the provider would no longer be providing services under the health care plan.

The act would take effect September 1, 1997, and apply to contracts entered into or renewed on or after that date. A contract that violated these provisions would be considered void.

SUPPORTERS SAY: HB 812 would ensure that doctors and other health care providers are not prohibited from conveying information important to a patient's care and treatment. Certain provisions, often called "gag clauses," have been used by some HMOs to prohibit doctors from discussing with a patient methods of treatment or types of care not provided by the HMO. However, patients need to know about all their options, regardless of coverage limitations, in order to make the health care choices that are best for them and their medical and financial circumstances.

This bill would not change the policies of most HMOs in Texas, but would establish clear legislative intent and patient protections. While gag clauses are not common in Texas, some such incidences have been reported and should be prevented.

The bill as amended would not prevent HMO contracts from barring providers from discussing other health care plans or insurance with HMO enrollees. Doctors should not be in the business of selling health benefit plans; they are knowledgeable about medicine, and their advise to their patients should be restricted to medical advise. There are many HMOs operating in Texas, with hundreds of variations in coverage depending upon the purchaser and location of the network. Doctors have no way of accurately advising their patients about other health benefit plans because their knowledge of other coverages is usually limited to the plans and the types of covered services with which they are personally involved.

**OPPONENTS
SAY:**

The bill as amended would not go far enough — HMOs should also be prohibited from contractually barring physicians from discussing other health benefit plans with HMO enrollees. Doctors and other health care providers should be allowed to talk to their patients about other health care plans, and such a discussion would not necessarily constitute selling or marketing other health care plans. Most patients receive their insurance through their employer and may be unaware of how their coverage compares to other available health plans. For example, it could be useful to patients with very low health benefit plan coverage to know that their plan is extremely limited when compared to most other plans available.

NOTES:

The committee amendments would delete a provision in the original version of the bill would allow providers to discuss with enrollees the availability or desirability of another health care plan or insurance and would specifically include dentists under the communication protections.