

- SUBJECT:** Regulating the termination of provider contracts by an insurer
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 7 ayes — Eiland, Averitt, Burnam, G. Lewis, J. Moreno, Olivo, Thompson  
1 nay — Seaman  
1 absent — Smithee
- WITNESSES:** For — Ace Pickens; Robert Provan; Michael Sharp, Texas Medical Association  
  
Against — Will Davis, Texas Association of Life and Health Insurers; Tom McCarty, Texas Association of Preferred Provider Organizations; Leah Rummel, Texas Association of Health Plans
- BACKGROUND:** When an insurer terminates a contract with a provider, the insurer is required to furnish a written account of the reasons. If the provider requests it, the insurer also must offer a review process prior to termination that includes a peer review panel selected by the insurer. The insurer is not required to offer a review process in cases where the termination is because of imminent harm to patients, fraud, or the state licensing board has taken action.  
  
When the review panel recommendation is contrary to the insurer's determination, the insurer must give the provider a written explanation if the provider requests one.  
  
The National Practitioner Data Bank, administered by the U.S. Department of Health and Human Services, collects and releases information related to the professional competence and conduct of physicians.
- DIGEST:** CSHB 1913 would amend Insurance Code, sec.3.70-C, which regulates health insurance, and sec. 20A, which regulates HMOs. The bill would require insurers to conduct a peer review prior to filing a complaint if a contributing cause to the decision to terminate were based on utilization review, quality review, or an action that was reported to the National

Practitioner Data Bank. In these cases, the peer review would be required to meet federal standards, which include notice, awards of costs, and other regulations.

The insurer would have to offer a review process in cases where the termination occurred because there was imminent harm to patients, fraud, or the state licensing board had taken action. In these cases, the peer review could be initiated at the time of termination or suspension.

If the review panel's recommendation were contrary to the insurer's determination, the insurer only would be able to terminate for good cause.

Providers would be authorized to take action against an insurer if the insurer's failure to follow the review procedures resulted in injury to the provider. The provider could recover damages, court costs and attorney fees, a reprimand against the insurer, and any other relief the court would impose. The provider also could bring action on others' behalf.

The changes the bill would make would apply only to contracts written or renewed after the effective date of the bill. CSHB 1913 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

CSHB 1913 would give providers the authority they needed to defend their reputations. Under current law, insurers can make complaints to the national data bank without a collaborating review. The information collected by the National Practitioner Data Bank is vital to a provider's career, and it should be accurate. Insurers should be required to provide a peer review before complaints were filed.

Providers should be able to take action against insurers if the insurer did not follow proper termination procedures and thus resulted in injury to the provider. A complaint that was inaccurate could ruin a provider's career. Insurers who chose not to follow the law and unnecessarily hurt a provider's career should be liable for those damages. Insurers who followed the law would not be held liable and would have no reason to oppose providers' right to take action.

OPPONENTS  
SAY:

CSHB 1913 would expose insurers to unreasonable litigation. The definition of good cause would be wide open to interpretation and what a provider thought was good cause would be unlikely to be the same as the insurer's definition in cases where the insurer terminated the contract. Because this bill would prohibit insurers from terminating in cases where the peer review made a contrary recommendation, except with good cause, the interpretation would be the basis for litigation. Insurers already are subject to sanctions if they do not follow the law, so they should not be subject to additional action from providers.

NOTES:

The committee substitute specified that insurers would have to conduct a peer review that met federal standards prior to filing a complaint in certain cases.