SUBJECT: Prohibiting mandatory use of a hospitalist in preferred provider contracts

COMMITTEE: Insurance — favorable, with amendment

VOTE: 9 ayes — Smithee, Eiland, Averitt, Burnam, G. Lewis, Moreno, Olivo, Seaman, Thompson

0 nays

WITNESSES: (*On original version:*)
For — Allan Chernov, Aetna; Joe Gagen, Texas 501(a) Alliance; Julie Graves Moy, Texas Academy of Family Physicians and Texas Medical Association; Lynda Woolbert, Coalition for Nurses in Advanced Practice; *Registered but did not testify*: Troy Alexander, Texas Medical Association; Tom Banning, Texas Academy of Family Physicians; Joe Cunningham, Texas 501(a) Association and Texas Academy of Family Physicians; Anthony Haley, Lone Star Medical Association; Lisa McGiffert, Consumers Union; John Oates, Aetna; Candi Phipps, Texas Pediatric Society; Marc Samuels, Texas Academy of Internal Medicine.

Against — John Kyles, People 1st Healthcare Network and 501(a) Non-Profit Physician Network.

BACKGROUND: Insurance Code, Art. 3.70-3C sets forth guidelines for preferred provider organizations in the state of Texas. Insurance Code, Art. 21.52F deals with certification of certain nonprofit health corporations and the qualifications for obtaining a certificate of authority to operate as a Health Maintenance Organization (HMO). Insurance Code, Chapter 20A, known as the Texas HMO Act, governs the operation of HMO plans in Texas.

Physicians currently may not be employed by non-physician owned organizations. For example, a hospital may not employ a physician, but it may contract with a physician group. Physicians may negotiate contracts through 501(a) organizations, which are physician owned and directed groups that exercise collective bargaining power with hospitals and insurers.

Hospitalists are physicians who replace the primary care doctor as the physician of record and coordinate a patient's care in the hospital setting. They are trained in inpatient care and often handle evaluating the need for admission, ordering tests and following up on results, and providing information and referral for rehabilitation or long-term care. When a patient leaves the hospital, the hospitalist returns the care of the patient to his or her primary doctor. A hospitalist typically works exclusively in a hospital.

DIGEST:

HB 606 would amend Insurance Code, Article 3.70-3C and Insurance Code, ch. 20 to prohibit preferred provider contracts between insurers and physicians from requiring the use of a hospitalist.

As amended, the bill would exempt from the hospitalist prohibition any 501(a) nonprofit health corporation that met the requirement for a certificate of authority under the Texas HMO Act.

The bill would take effect September 1, 2001 and would apply only to contracts between an insurer or health maintenance organization and a physician entered into on or after that date. All contacts entered into before the effective date would be governed by the law in effect immediately before to the effective date.

SUPPORTERS SAY:

HB 606 would give patients the right to choose who provides their care in the hospital setting. Having a single physician in charge of their care may help some patients feel more comfortable during their hospital stay. Patients may have a long and trusting relationship with a primary care physician and may particularly value that when in the hospital.

Physicians also may be uncomfortable interrupting continuity of care by turning over their patient's care to a hospitalist who neither the patient nor the physician may know. This can lead to miscommunications between the primary physician and the hospitalist. The hospitalist program can be beneficial to patients and providers, but the choice to use a hospitalist should be made by the patient.

Ensuring that patients have a choice could result in cost savings for the provider because it would ensure that patients receive only the services, procedures, and tests that they need and only for as long as they need them.

However, patient choice would not foreclose using hospitalists. Some physicians appreciate the services a hospitalist can provide. If a physician has very few hospitalized patients, it can be very time consuming to attend to their care in person and respond to the many decisions that must be made each day in the hospital.

The bill as amended would exempt 501(a) groups from unnecessary regulation. These nonprofit groups are comprised of physicians who use their medical judgement in deciding whether to use a hospitalist and have their patients' best interests in mind, so the prohibition against requiring use of a hospitalist is unnecessary.

OPPONENTS SAY:

The committee amendment to HB 606 unfairly would require the patients of physicians who belong to a 501(a) to use a hospitalist while those with other physicians would not. The 501(a) distinction would be unimportant to patients who want the right to keep seeing their primary physician while in the hospital.

OTHER OPPONENTS SAY:

HB 606 would legislate a policy that could be achieved through a rule change. According to the House Insurance Committee's interim report, two companies had proposed mandatory hospitalist programs, but, in both cases, modified the program to make it voluntary. The Texas Department of Insurance is unaware of any current contracts that include a mandatory hospitalist program.

NOTES:

The committee amendment would exempt from the hospitalist prohibition any 501(a) nonprofit health corporation that met the requirement for a certificate of authority under the Texas HMO Act.

The companion bill, SB 97 by Nelson, was referred to the Senate Business and Commerce Committee.

A similar bill in the 76th Legislature, HB 1333 by Uresti, was reported favorably by the House Insurance Committee but died in the House Calendars Committee.