

SUBJECT: Requiring certain disclosures of short-term health insurance policies

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Lucio, Oliverson, G. Bonnen, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

1 absent — S. Davis

WITNESSES: For — Stacey Pogue, Center for Public Policy Priorities; Karen Hill, Community Health Choice; (*Registered, but did not testify:* Blake Hutson, AARP Texas; Marina Hensch, American Cancer Society Cancer Action Network; Joel Romo, American Diabetes Association; Shelby Massey, American Heart Association; TJ Patterson, City of Fort Worth; Chase Bearden and Dennis Borel, Coalition of Texans with Disabilities; Tim Schauer, Community Health Choice; Jesse Ozuna, Doctor's Hospital at Renaissance; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Marilyn Hartman, National Alliance on Mental Illness Austin; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers - Texas Chapter; Simone Nichols-Segers, National MS Society; Daniel Chepkauskas, Patient Choice Coalition of Texas; Lauren Spreen, Texas Academy of Family Physicians; Deanna L. Kuykendall, Texas Brain Injury Providers Alliance; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Dana Bacon, The Leukemia and Lymphoma Society)

Against — Shannon Meroney, Texas Association of Health Underwriters

On — (*Registered, but did not testify:* Doug Danzeiser, Texas Department of Insurance)

BACKGROUND: Insurance Code sec. 1201.104 requires the Texas Department of Insurance commissioner to adopt rules for individual accident and health insurance

policies establishing minimum standards for benefits for the following categories of coverage:

- basic hospital or medical-surgical expenses;
- hospital indemnity or other fixed indemnity;
- major medical expense;
- disability income protection;
- accident only;
- specified disease or accident; and
- limited benefit.

Sec. 1201.104 does not prohibit individual accident and health insurance policies from combining the listed coverage categories above.

26 C.F.R. sec. 54.9801-2 defines short-term, limited-duration insurance as health insurance that specifies an expiration date of less than 12 months after the contract's original effective date and taking into account renewals or extensions, has a total maximum duration of 36 months. Federal regulations require these insurance policies to post notice specifying that coverage is not required to comply with certain federal market health insurance requirements, principally those contained in the federal Affordable Care Act, and is not minimum essential coverage.

Observers have noted that consumers purchasing short-term, limited-duration health insurance plans may not understand the plan's limitation on benefits and may expect more robust benefits than what was provided. They say these plans often deny coverage for preexisting conditions and provide little or no coverage for mental health and that overreliance on them could lead to increased uncompensated care, medical bankruptcies, and higher premiums for traditional health insurance. Some have suggested providing minimum standards of benefits and accurate and transparent coverage information to potential purchasers of short-term limited-duration insurance plans.

DIGEST:

CSHB 2507 would require the commissioner of the Texas Department of Insurance (TDI) to adopt a rule establishing minimum standards and

benefits for short-term limited-duration insurance. The bill also would require short-term, limited-duration insurance policies to disclose certain coverage information.

Advertising. The bill would require an insurer issuing a short-term limited-duration policy to display on marketing materials, including any websites advertising or selling the policy, the notice required under 26 C.F.R. sec. 54.9801-2. The TDI commissioner by rule would have to prescribe a procedure to communicate the required advertisement information to a prospective purchaser on a website.

Disclosure form. The TDI commissioner by rule would have to prescribe a disclosure form to be provided with the short-term, limited-duration insurance policy and application. The form would have to include:

- the duration of coverage;
- a statement specifying the number of times the policy could be renewed or whether it could not be renewed;
- the next three open enrollment periods under the federal Affordable Care Act following the policy's expiration date;
- whether the policy contained any limitations or exclusions to preexisting conditions;
- the maximum dollar amount payable;
- the policy's deductibles and the corresponding health care services to which those deductibles apply;
- whether the policy covered prescription drug coverage, mental health services, substance abuse treatment, maternity care, hospitalization, surgery, and emergency and preventive health care; and
- any other information the commissioner deemed important.

Renewal. The bill would prohibit a short-term, limited-duration insurer from describing a policy as renewable unless the policy was renewable at the policyholder's option and the policy provided that during the initial term and any renewal period, the insurer could not change a material term without the policyholder's consent. These provisions would not limit an

insurer's right to make changes in premium rates by class.

Termination. The insurer would have to provide the insured an opportunity to cancel the policy after each 30-day interval after the coverage's effective date. The insurer could not terminate the policy before its expiration date except for nonpayment of premiums or because the policyholder's actions constituted fraud or were an intentional misrepresentation of a material fact.

Other provisions. By January 1, 2020, the TDI commissioner would have to adopt rules to implement the bill's provisions.

The bill would take effect September 1, 2019, and would apply to an insurance policy issued or renewed on or after January 1, 2020.