

SUBJECT: Adding HMOs to Texas Life and Health Insurance Guaranty Association

COMMITTEE: Insurance — favorable, without amendment

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

0 nays

1 absent — Vo

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1864:*

For — (*Registered, but did not testify:* Jason Neerman, Aetna; Deborah Polan, AIG, Patrician Kolodzey, Blue Cross Blue Shield of Texas; Kandice Sanaei, Cigna; Jay Thompson, Prudential, Texas Association of Life and Health Insurers; Jason Baxter, Texas Association of Health Plans; Jennifer Crawley, Texas Association of Life and Health Insurers; Mike Meroney, Texas Association of Health Underwriters; Burnie Burner, Texas Title Insurance Guaranty Association; Miles Mathews, Voya Financial Services)

Against — None

On — Bart Boles, Texas Life and Health Insurance Guaranty Association; (*Registered, but did not testify:* Jamie Walker, Texas Department of Insurance; Jacqueline Rixen, Texas Life and Health Insurance Guaranty Association)

BACKGROUND: Insurance Code ch. 463 establishes the Texas Life and Health Insurance Guaranty Association Act and is designed to protect certain persons against failure in a contractual obligation under a life, accident, or health insurance policy or annuity contract due to impairment or insolvency of the member insurer that issued the policy or contract.

Sec. 463.052 requires certain insurers to participate as a member of the Texas Life and Health Insurance Guaranty Association, which is a nonprofit legal entity designed to pay benefits and continue coverage for certain persons. A health maintenance organization does not participate as a member insurer. Subch. E specifies that the provided coverage by the association applies to the following policies and contracts issued by a member insurer:

- a direct, nongroup life, health, accident, annuity, or supplemental policy or contract;
- a certificate under a direct group policy or contract;
- a group hospital service contract; and
- an unallocated annuity contract.

Sec. 463.105 requires the association to maintain separate accounts for administrative expenses, annuity, life insurance, and accident, health, and hospital services insurance.

Secs. 463.151 and 463.152 require the association to assess member insurers, separately for each account, in amounts the board determines necessary to provide money for the association to exercise its powers and administer ch. 463. Assessments are classified as Class A, which are used to pay the association's administrative expenses, and Class B, which are used to exercise the association's specified powers and duties.

Subch. F governs the association's powers and duties for impaired or insolvent insurers.

Observers have noted that the Texas Life and Health Insurance Guaranty Association covers insurance claims and annuity contracts of certain insolvent insurance companies, some of which require health insurers to cover most of insolvency cost despite the fact that life insurers receive the majority of long-term care premiums. Observers suggest that including health maintenance organizations in the association's membership would allocate a long-term care insurer's insolvency cost more evenly between life and health insurers.

**DIGEST:** SB 1153 would require a health maintenance organization (HMO) to participate as a member insurer in the Texas Life and Health Insurance Guaranty Association and would make conforming changes regarding the association's duties, documentation, coverage requirements, and assessments.

The bill would specify that benefits provided by a long-term care rider to a life insurance policy or annuity contract would be considered the same type of benefits as the base life insurance policy or annuity contract.

**Association's authority.** Unless prohibited by other law, the bill would allow the association to implement or file for an actuarially justified rate or premium increase in accordance with the terms and conditions of a covered policy. The bill would delay the required effective date of an amendment to the association's plan of operation from the 30th day to the 60th day after it was submitted to the Texas Department of Insurance (TDI) commissioner.

The bill would allow the association, with the TDI commissioner's approval, to reissue the impaired or insolvent insurer's policies.

**Applicability and exemptions.** The bill would include an HMO contract or certificate in the applicable coverage provided by the association under Insurance Code ch. 463, subch. E. The bill would exempt from the association's coverage Medicaid and the state's Children's Health Insurance Program.

**Assessments.** The bill would require the amount of a Class B assessment for long-term care insurance written by an impaired or insolvent member insurer to be allocated according to a commissioner-approved methodology. The methodology would have to allocate 50 percent of the assessment to accident and health member insurers and 50 percent to life and annuity member insurers. These provisions would not apply to a rider to a member insurer's life insurance or annuity policy that provided long-term care benefits.

The bill would take effect September 1, 2019, and would apply only to an insurer that first became impaired or insolvent on or after that date.