

BILL ANALYSIS

Senate Research Center

C.S.H.B. 812
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Economic Development
5-14-97
Committee Report (Substituted)

DIGEST

Currently, in contracts between a health maintenance organization (HMO) and the health care provider, the provider is limited to the amount of information the provider can give to the provider's patient regarding treatment and health care coverage provided by the HMO. These "gag clauses" prevent health professionals from exercising the full range of possible necessary care. This bill would prohibit HMOs from limiting a physician's or provider's communication with an enrollee by eliminating "gag clauses."

PURPOSE

As proposed, C.S.H.B. 812 prohibits health maintenance organizations from limiting a physician's or provider's communications with an enrollee by eliminating "gag clauses."

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 20A, V.T.C.S. (Texas Health Maintenance Organization Act), by adding Section 18A, as follows:

Sec. 18A. PHYSICIAN, DENTIST, OR PROVIDER COMMUNICATION. (a) Prohibits a health maintenance organization (HMO), as a condition of a contract with a physician, dentist, or provider, or in any other manner, from prohibiting, attempting to prohibit, or discouraging a physician, dentist, or provider from discussing with or communicating in good faith to a current, prospective, or former patient, or a party designated by a patient, with respect to information or opinions regarding the patient's health care, including the patient's medical condition or treatment opinions; information or opinions regarding the provisions, terms, requirements, or services of the health care plan as they relate to the medical needs of the patient; or the fact that the physician's, dentist's, or provider's contract with the health care plan has terminated or that the physician, dentist, or provider will otherwise no longer be providing medical care, dental care, or health care services under the health care plan.

(b) Prohibits an HMO in any way from penalizing, terminating, or refusing to compensate, for covered services, a physician, dentist, or provider for communication with a current, prospective, or former patient, or a party designated by a patient, in any manner protected by this section.

(c) Provides that a contract that violates this section is hereby declared void.

SECTION 2. Amends Chapter 241E, Health and Safety Code, by adding Section 241.1015, as follows:

Sec. 241.1015. PHYSICIAN COMMUNICATION AND CONTRACTS. Prohibits a hospital from restricting a physician's ability to communicate with a patient with respect to certain information. Prohibits a hospital from refusing or failing to grant or renew staff privileges, or from conditioning staff privileges, based in whole or in part on the fact that the

physician or a partner, associate, or employee of the physician is providing medical or health care services at a different hospital or hospital system. Prohibits a hospital from contracting to limit a physician's participation or staff privileges or the participation or staff privileges of a partner, associate, or employee of the physician at a different hospital or hospital system. Provides that a contract provision that violates this section is void. Defines "health care plan."

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 18A, Chapter 20A, V.T.C.S., to revise proposed Subsections (a)(1) and (2) and to add proposed Subsection (b). Redesignates originally proposed Subsection (b) as Subsection (c), with proposed revisions.