BILL ANALYSIS

Senate Research Center
FOPB-1

S.B. 1468
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Economic Development
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DIGEST

Currently, federal antitrust law prohibits physicians from establishing networks to negotiate contract provisions with health benefit plans. S.B. 1468 would authorize physicians practicing within the service area of a health benefit plan to collectively negotiate the terms and conditions described by Subsection (b) of this article, if the health plan has substantial market power and if the physicians have a representative to engage in collective negotiations.

PURPOSE

As proposed, S.B. 1468 sets forth provisions for the requirements of collective negotiations by physicians, or their representative, with certain health benefit plans.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Commissioner of Insurance in SECTION 1 (Article 29.08, Chapter 29, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the Insurance Code, by adding Chapter 29, as follows:

CHAPTER 29. COLLECTIVE NEGOTIATIONS BY PHYSICIANS WITH HEALTH BENEFIT PLANS

Art. 29.01. DEFINITIONS. Defines "health benefit plan," "person," "physicians' representative," and "substantial market power."

Art. 29.02. SCOPE OF CHAPTER. Provides that this chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by certain entities. Sets forth descriptions of the limitations of this chapter.

Art. 29.03. COLLECTIVE NEGOTIATION AUTHORIZED. Authorizes physicians practicing within the service area of a health benefit plan to collectively negotiate the terms and conditions described by Subsection (b) of this article, if the health plan has substantial market power. Sets forth certain terms and conditions of contracts with health benefit plans that a physician is authorized to collectively negotiate. Prohibits this chapter from being construed as authorizing a boycott of a health benefit plan by physicians.

Art. 29.04. LIMITATIONS ON COLLECTIVE NEGOTIATION. Authorizes physicians, within cerain limitations, to collectively negotiate certain fees, prices, conversion factors, discount amounts, dollar amounts of capitation, or inclusions or alterations of terms or conditions with a health benefit plan, if the health benefit plan has substantial market power. Provides that Subsection (a)(5) of this article does not affect the right of a physician or group of physicians to collectively petition a governmental entity for a change in a law, rule, or regulation.

Art. 29.05. COLLECTIVE NEGOTIATION REQUIREMENTS. Sets forth the required collective negotiation rights conformities. Prohibits a physicians' representative from representing

more than 30 percent of the physicians, or of a particular physician type or specialty, practicing in the service area or proposed service area of a health benefit plan that covers less than five percent of the actual number of consumers of prepaid comprehensive health services in the area, as determined by the Texas Department of Insurance (department).

Art. 29.06. REQUIREMENTS FOR PHYSICIANS' REPRESENTATIVE. Requires a person who acts as a physicians' representative under this chapter to file with the Commissioner of Insurance (commissioner), in the manner prescribed by the commissioner, information identifying the representative, the representative's plan of operation, and the representative's procedures to ensure compliance with this article. Requires the physicians' representative, before engaging in the collective negotiations, to also submit a brief report identifying the proposed subject matter of the negotiations or discussions with the health benefit plan and the efficiencies or benefits expected to be achieved through the negotiations to the commissioner for the commissioner's approval. Prohibits the commissioner from approving the report, if the commissioner determines that the proposed negotiations would exceed the authority granted under this chapter. Requires the representative to supplement the information in the report as new information becomes available that indicates that the subject matter of the negotiations with the health benefit plan has changed or will change. Requires the commissioner, with the advice of the attorney general, to approve or disapprove the activity identified in the report not later than the 30th day after the date on which the report is filed. Requires the commissioner to furnish a written explanation of any deficiencies, along with a statement of specific proposals for remedial measures that would cure the deficiencies, if disapproved. Provides that a person who acts as a physicians' representative without the approval of the commissioner under this article acts outside of the authority granted under this chapter. Requires the physicians' representative to furnish for approval by the commissioner, before dissemination to the physicians, a copy of all communications to be made to the physicians related to negotiations, discussions, and offers made by the health benefit plan, before reporting the results of negotiations with a health benefit plan or providing to the affected physicians an evaluation of any offer made by a health benefit plan. Requires a physicians' representative to report the end of negotiations to the commissioner not later than the 14th day after the date of a health benefit plan decision declining negotiations, canceling negotiations, or failing to respond to a request for negotiation.

Art. 29.07. CERTAIN COLLECTIVE ACTION PROHIBITED. Provides that this chapter is not intended to authorize competing physicians to act in concert in response to a report issued by the physicians' representative related to the representative's discussions or negotiations with health benefit plans. Sets forth the required actions to be taken by the physicians' representative.

Art. 29.08. FEES. Requires each person who acts as the representative of negotiating parties under this chapter to pay a fee to the department to act as a representative. Authorizes the commissioner, by rule, to set fees in reasonable and necessary amounts to cover the costs incurred by the department under this chapter. Requires a fee collected under this article to be deposited in the state treasury to the credit of the Texas Department of Insurance operating fund.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.