

CHAPTER 805

S.B. No. 544

An Act relating to coverage for alcohol dependency in certain group policies and other health plans; excluding certain policies; amending Sections 1 and 2, Article 3.51-9, Insurance Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 3.51-9, Insurance Code, is amended by amending Sections 1 and 2 to read as follows:

“Section 1. **PURPOSE.** The purpose of this article [~~Act~~] is to provide [~~encourage~~] consumers with benefits for the care and treatment of alcohol dependency in [~~to avail themselves of basic levels of benefits provided by~~] group health insurance policies or [~~5~~] contracts, group health [~~and~~] coverage provided by health maintenance organizations, and all self-funded or self-insured plans (but excluding those self-funded or self-insured plans with 250 or less employees or members), that provide basic hospital, surgical, or major medical expense benefits or coverages or any combination of these coverages, but excluding all individual insurance policies, and any individual H.M.O. policies, regardless of the method of solicitation or sale, and excluding all health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or supplemental or limited benefit coverage, or coverage for specified diseases or accidents, or disability income coverage, or any combination thereof [~~for the care and treatment of alcohol and other drug dependency and to preserve the right of the consumer to select such coverage according to his medical economic needs~~].

“Section 2. **AVAILABILITY OF COVERAGE FOR ALCOHOL [~~AND OTHER DRUG~~] DEPENDENCY.** Insurers, nonprofit hospital and medical service plan corporations subject to

Chapter 20 of this code, [and] health maintenance organizations providing group health coverage, and all employer, trustee, or other self-funded or self-insured plans or arrangements transacting health insurance or providing other health coverage or services in this state shall provide [offer and make available], under such group insurance policies or [s] contracts [s] and such plans or arrangements providing hospital and medical coverage or services on an expense incurred, service, or prepaid basis, benefits for the necessary care and treatment of alcohol [and other drug] dependency that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors. [Such offer of benefits shall be subject to the right of the group policy or contract holder to reject the coverage or to select any alternative level of benefits if such right is offered by or negotiated with such insurer, service plan corporation, or health/maintenance organization.]

"This section shall not apply to any employer, trustee, or any other self-funded or self-insured plans or arrangements with 250 or less employees or members, or any individual insurance policies regardless of the method of solicitation or sale, or any individual H.M.O. policies, or to any health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or supplemental or limited benefit coverage, or coverage for specified diseases or accidents, or disability income coverage, or any combination thereof.

"Any benefits so provided shall be determined as if necessary care and treatment in an alcohol [or other drug] dependency treatment center were care and treatment in a hospital. For purposes of this article [Act], the term 'alcohol [or other drug] dependency treatment center' means a facility which provides a program for the treatment of alcohol [or other drug] dependency pursuant to a written treatment plan approved and monitored by a physician and which facility is also:

"(1) affiliated with a hospital under a contractual agreement with an established system for patient referral; [s] or

"(2) accredited as such a facility by the Joint Commission on Accreditation of Hospitals; [s] or

"(3) licensed as an alcohol treatment program by the Texas Commission on Alcoholism; [s] or

"(4) [certified as a drug dependency treatment program by the Texas Department of Community Affairs in accordance with such standards, if any, as may be adopted pursuant to Subsection (e), of Section 5-12 of the Texas Controlled Substances Act (Article 4476/15, Vernon's Texas Civil Statutes); by the Executive Director of the Texas Department of Community Affairs; or

"[(5)] licensed, certified, or approved as an alcohol [or other drug] dependency treatment program or center by any other state agency having legal authority to so license, certify, or approve."

SECTION 2. (a) This Act takes effect on January 1, 1986, and applies only to group insurance policies, contracts, and plans and to coverage provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended, or amended in this state on or after January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders, whichever is later in time. Group insurance policies, contracts, and plans and coverage provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended, or amended in this state before January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders entered into before January 1, 1986, are subject to the law as it existed before the effective date of this Act until such time as those policies, contracts, coverages, and agreements are renewed, extended, amended, cancelled, expired, or renegotiated, and that law is continued in effect for that purpose.

(b) A suit filed under Article 3.51-9, Insurance Code, before the effective date of this Act is governed by the law in effect at the time the suit was filed.

SECTION 3. If any part of this Act shall be held by the courts to be unconstitutional or unenforceable or preempted by federal law in whole or in part, such invalidity shall not affect the validity or enforceability of the remaining provisions of the article and the legislature hereby declares that it would have passed such remaining provisions and any valid and enforceable portions of this Act despite such invalidity.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 7, 1985, by a viva-voce vote; Senate concurred in House amendment on May 23, 1985, by a viva-voce vote; passed the House, with amendment, on May 21, 1985, by the following vote: Yeas 86, Nays 52, six present not voting.

Approved: June 15, 1985

Effective: August 26, 1985