

## CHAPTER 45

S.B. No. 263

## AN ACT

relating to regulation of home health services.

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

SECTION 1. Chapter 3, Insurance Code, as amended, is amended by adding Article 3.70-3B to read as follows:

*Art. 3.70-3B. HOME HEALTH SERVICE**Sec. 1. As used in this article:*

(1) "Health services" includes:

(A) skilled nursing by a registered nurse or licensed vocational nurse under the supervision of at least one registered nurse and at least one physician;

(B) physical, occupational, speech, or respiratory therapy;

(C) the service of a home health aide under the supervision of a registered nurse; and

(D) the furnishing of medical equipment and medical supplies other than drugs and medicines.

(2) "Home health agency" means a business that provides home health service and is licensed by the Texas Department of Health under Chapter 642, Acts of the 66th Legislature, Regular Session, 1979 (Article 4447u, Vernon's Texas Civil Statutes).

(3) "Home health service" means the provision of a health service for payment or other consideration in a patient's residence under a plan of care established, approved in writing, and reviewed at least every two months by the attending physician and certified by the attending physician as necessary for medical purposes.

*Sec. 2. (a) Except as provided by Subsections (b) and (c) of this section, a group policy of accident and sickness insurance, including policies issued by companies subject to Chapter 20 of this code, may not be delivered or issued for delivery to any person in this state unless benefits for home health service provided by a licensed home health agency are included in that group policy. Home health services provided under this section may not be reimbursed unless the attending physician certifies that hospitalization or confinement in a skilled facility would otherwise be required if a treatment plan for home health care was not provided.**(b) An insurer may not include the coverage required by Subsection (a) of this section if the policyholder rejects the coverage in writing. If a policyholder rejects the coverage in writing as provided by this subsection, the insurer has no further obligation to offer or to provide coverage for services under this article, provided that nothing contained herein shall prevent the policyholder and insurer from negotiating other benefits for home health services following policyholder rejection as provided above.**(c) This article does not apply to:*

(1) group accident and sickness policies that provide only coverage for a specified disease or diseases, vision care, dental care, hospital indemnity, prescription drugs, or other limited benefits;

(2) blanket insurance policies, as defined in Article 3.51-6, Insurance Code;

(3) short-term travel insurance;

(4) accident-only insurance;

(5) hospital indemnity policies;

(6) limited or specified disease policies;

(7) insurance policies or contracts issued pursuant to a right of conversion; or

*(8) insurance policies or contracts designed for issuance to persons eligible for Medicare.*

*Sec. 3. (a) A policy of accident or sickness insurance issued under Subsection (a) of Section 2 of this article may include:*

*(1) a limitation on the number of home health care visits for which benefits are payable, provided the number of visits for which benefits are payable may not be fewer than 60 visits in any calendar year or in any continuous period of 12 months for each person covered under the policy or contract;*

*(2) annual deductible and coinsurance provisions provided that those provisions are not less favorable than the deductible or coinsurance provisions applicable to covered hospital services under the policy; and*

*(3) an exclusion for home health benefits for custodial care, for services provided by a person who resides in the covered person's home or is a member of the covered person's family, or for services provided to a covered person who is eligible for Medicare.*

*(b) For the purposes of Subdivision (1) of Subsection (a) of this section, each visit by a representative of a home health agency is considered as one home health care visit, four hours of home health aide service is considered as one home health care visit, and if service extends beyond four hours, each four hours or portion of that period is considered as one home health care visit.*

*(c) Home health benefits may be subject to limitations and exclusions consistent with the balance of the policy or contract.*

*(d) This article does not preclude a group policy of accident and sickness insurance, including policies issued by companies licensed pursuant to Chapter 20 of this code, from including home health services in excess of those provided in this article.*

SECTION 2. Article 3.70-8, Chapter 3, Insurance Code, is amended to read as follows:

Art. 3.70-8. NON-APPLICATION TO CERTAIN POLICIES. Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in Section 2, Subsections (B) and (C) and in Article 3.70-3B; or (4) life insurance endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value, special benefit, or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.

SECTION 3. This Act takes effect January 1, 1988.

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 February 17, 1987, by a viva-voce vote. Passed the House on April 15, 1987, by a non-record vote.

Approved April 30, 1987.

Effective Jan. 1, 1988.