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Bill Analysis
Legislative Service Commission

S.B. 114

125th General Assembly
(As Introduced)

Sens. Fingerhut, Schuring, Hagan, Dann, Miller

BILL SUMMARY

- Allows the certification of a nonprofit corporation, controlled by and consisting exclusively of physicians, as a physician alliance, operating to assist its members in obtaining medical malpractice insurance coverage.

CONTENT AND OPERATION

Certification of a physician alliance

(secs. 1732.01 and 1732.02)

The bill allows a nonprofit corporation, whose membership consists exclusively of physicians, to apply for and obtain a certificate of authority to operate as a physician alliance. Physician alliances must be controlled exclusively by their member physicians, physicians who are licensed to practice in Ohio or who are retired from practice in Ohio. A nonprofit corporation is prohibited from obtaining a certificate of authority as a physician alliance if the corporation is directly or indirectly controlled by any insurance company; officers, trustees, or directors of any insurance company; insurance agents; or any combination of these persons. No insurer, corporation, or nonprofit corporation or alliance without a certificate of authority may use the term "physician alliance program" with respect to any medical malpractice insurance program sponsored or maintained by the insurer, corporation, or alliance.

For purposes of the bill, "medical malpractice insurance" is insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person, resulting from a physician's negligence or malpractice in rendering professional services. A "physician alliance program" is defined as a program sponsored and operated by a physician alliance that assists its members to obtain medical malpractice insurance coverage.

In order to obtain a certificate of authority to operate as a physician alliance, a nonprofit corporation must apply to the Superintendent of Insurance, in writing, on a form prescribed by the Superintendent. Within 90 days after receiving the application, if the Superintendent finds that the applicant is in compliance with all Revised Code sections applicable to physician alliances and all rules adopted thereunder, the bill requires the Superintendent to grant the nonprofit corporation a certificate of authority to operate as a physician alliance. However, if the Superintendent finds that the nonprofit corporation is not in compliance with all Revised Code sections applicable to physician alliances and all rules adopted thereunder, the Superintendent must deny the application within 90 days. The Superintendent must mail a notice of denial to the applicant within 30 days after determining the applicant is not in compliance. This notice must state the reasons for the denial. The bill requires the Superintendent to adopt rules pursuant to the Administrative Procedure Act, Chapter 119. of the Revised Code, that set forth a procedure to appeal a denial of a certificate of authority.

At least 60 days prior to the expiration of a certificate of authority, the Superintendent must notify the physician alliance of the need to renew its certificate of authority. To renew its certificate of authority, the physician alliance must file an application for renewal, in writing, on a form prescribed by the Superintendent. The Superintendent is required to renew a certificate of authority if the Superintendent finds that the physician alliance remains in compliance with all Revised Code sections applicable to physician alliances and all rules adopted thereunder. The bill requires the Superintendent to adopt rules pursuant to the Administrative Procedure Act that set forth a procedure to appeal the denial of a renewal of a certificate of authority.

Operation and administration of physician alliances; agreements with insurers

(secs. 1732.03, 1732.04, and 1732.05)

A physician alliance has authority, granted by the bill, to sponsor and operate a physician alliance program, negotiating and entering into agreements for medical malpractice insurance coverage for its members with one or more licensed medical malpractice insurers. A physician alliance also may provide or contract with other persons for enrollment, record keeping, information, premium billing, collection, and other services related to a physician alliance program. Further, a physician alliance also may receive reports and information from a contracted insurer and negotiate and enter into agreements with respect to the inspection and audit of the books and records of the insurer.

A physician alliance is required to adopt written articles and regulations for the management of the physician alliance, which articles and regulations establish rights and privileges of membership in the alliance. A physician alliance may

adopt and enforce reasonable rules, terms, and conditions, in relation to a physician's eligibility for membership in the physician alliance.

The bill permits the Superintendent of Insurance to adopt rules in accordance with the Administrative Procedure Act that the Superintendent considers to be necessary and advisable for the purpose of implementing and carrying out the laws pertaining to physician alliances.

The bill states that a physician alliance is not and shall not be regarded for any purpose as an insurer, an offeror or seller of insurance, a partner of or joint venturer with any insurer, or an agent or solicitor for any insurer. A physician alliance is not liable under or by reason of any insurance coverage obtained by physicians through a physician alliance program. The bill also states that the promotion of a physician alliance program is not and shall not be regarded for any purpose as the offer, solicitation, or sale of medical malpractice insurance.

Agreements between physician alliances and malpractice insurers

The bill mandates that an agreement between a physician alliance and a medical malpractice insurer require the insurer to offer and sell to member physicians one or more options for medical malpractice insurance coverage. The agreement must require the insurer to clearly communicate any requirements that a physician must meet in order to be eligible for coverage under each of the policies offered.

The agreement between a physician alliance and a medical malpractice insurer may contain provisions relating to, but not limited to, any of the following: (1) an application and enrollment process for members of the alliance seeking medical malpractice insurance coverage, (2) the minimum number of participating members that the insurer requires in order to institute coverage under an offered malpractice insurance policy, (3) the ownership, use, availability, and maintenance of confidentiality of, the records of the physician alliance program, and (4) the utilization reports to be provided to the physician alliance by the insurer. The agreement between a physician alliance and a medical malpractice insurer, in itself, is not a policy or contract of insurance, nor a certificate, rider, or part of a contract of insurance.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-31-03	p. 941

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