Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 303 of the Regular Session

State of Arkansas *As Engrossed: H2/19/07*

86th General Assembly A Bill

Regular Session, 2007 HOUSE BILL 1454

By: Representatives D. Johnson, Garner

For An Act To Be Entitled

AN ACT TO DISCONTINUE THE ARKANSAS ADVISORY COMMISSION ON MANDATED HEALTH INSURANCE BENEFITS; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO DISCONTINUE THE ARKANSAS ADVISORY COMMISSION ON MANDATED HEALTH INSURANCE BENEFITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §§ 23-79-901 – 23-79-906 are repealed:

~~23-79-901. Purpose.~~

~~It is the intent of the General Assembly to encourage health care cost containment while preserving the quality of care offered to citizens of this state. The General Assembly finds that there is an increasing number of proposals that mandate that certain health insurance benefits be provided by insurers as components of individual and group accident and health policies.~~

~~23-79-902. Commission established - Members - Meetings.~~

~~(a) The Arkansas Advisory Commission on Mandated Health Insurance Benefits is established to advise the Governor and the General Assembly on the social, medical, and financial impact of current and proposed mandated benefits and providers.~~

~~(b) The commission shall be composed of fourteen (14) members as follows:~~

~~(1) Five (5) members shall be appointed by the Governor as~~

~~follows:~~

~~(A) One (1) member who is a physician;~~

~~(B) One (1) member who is a representative of the State Insurance Department;~~

~~(C) One (1) member with individual health insurance; and~~

~~(D) Two (2) members of the general public;~~

~~(2) Five (5) members shall be appointed by the President Pro Tempore of the Senate as follows:~~

~~(A) One (1) member who is a representative of a general acute care hospital;~~

~~(B) One (1) member who is a representative of a major industry;~~

~~(C) One (1) member who is a representative of the accident and health insurance industry;~~

~~(D) One (1) member who is a dentist; and~~

~~(E) One (1) member who is a representative of organized labor; and~~

~~(3) Four (4) members shall be appointed by the Speaker of the House of Representatives as follows:~~

~~(A) One (1) member who is a representative of a small business;~~

~~(B) One (1) member who is a licensed accident and health insurance agent;~~

~~(C) One (1) member who is a representative of the accident and health insurance industry; and~~

~~(D) One (1) member who is a licensed chiropractor.~~

~~(c)(1) All members shall be appointed for terms of four (4) years each, except for the initial term provided for in subdivision (c)(3) of this section.~~

~~(2) Appointments to fill vacancies shall be made for the remainder of an unexpired term only.~~

~~(3) The initial terms shall be staggered and shall begin September 1, 2001, with seven (7) members serving an initial term of two (2) years and the seven (7) remaining members serving an initial term of four (4) years. The initial terms shall be determined by lot.~~

~~(4) No person shall be eligible to serve more than two (2)~~

~~successive terms, or a portion thereof. However, members may be appointed to additional successive terms after a one-year break in service.~~

~~(d) The commission shall meet quarterly or at the request of the Governor. At the first meeting, which shall be held within thirty (30) days after the appointment of the commission, the commission shall select a chair and a vice chair from its membership.~~

~~(e)(1) All initial appointments to the commission shall be made within forty-five (45) days of August 12, 2005.~~

~~(2) If all initial appointments to the commission are not made within forty-five (45) days of August 12, 2005, then the Insurance Commissioner shall appoint the initial members of the commission remaining to be appointed.~~

~~23-79-903. Duties of the commission.~~

~~(a)(1) The Arkansas Advisory Commission on Mandated Health Insurance Benefits shall assess the social, medical, and financial impact of proposed mandated health insurance services or benefits.~~

~~(2) As used in this section, "mandated health insurance services or benefits" means the same as "state-mandated health benefits" defined in § 23-86-502.~~

~~(b) In reviewing a proposed bill or interim study proposal mandating health insurance coverage for a service or benefit proposed, the commission shall follow § 23-79-906.~~

~~(c) In assessing an existing mandated health insurance service or benefit to the extent that information is available, the commission shall consider:~~

~~(1) Social impact, including:~~

~~(A) The extent to which the service is generally utilized by a significant portion of the population;~~

~~(B) The extent to which the insurance coverage is already generally available;~~

~~(C) If coverage is not generally available, the extent to which the lack of coverage results in individuals avoiding necessary health care treatments;~~

~~(D) If coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship;~~

~~(E) The level of public demand for the service;~~

~~(F) The level of public demand for insurance coverage of the service;~~

~~(G) The level of interest of collective bargaining agents in negotiating privately for inclusion of this coverage in group contracts; and~~

~~(H) The extent to which the mandated health insurance service is covered by self-funded employer groups;~~

~~(2) Medical impacts, including:~~

~~(A) The extent to which the service is generally recognized by the medical community as being effective and efficacious in the treatment of patients;~~

~~(B) The extent to which the service is generally recognized by the medical community as demonstrated by a review of scientific and peer review literature; and~~

~~(C) The extent to which the service is generally available and utilized by treating physicians; and~~

~~(3) Financial impacts, including:~~

~~(A) The extent to which the coverage will increase or decrease the cost of the service;~~

~~(B) The extent to which the coverage will increase the appropriate use of the service;~~

~~(C) The extent to which the mandated service will be a substitute for a more expensive service;~~

~~(D) The extent to which the coverage will increase or decrease the administrative expenses of insurers and the premium and administrative expenses of policyholders;~~

~~(E) The impact of this coverage on the total cost of health care; and~~

~~(F) The impact of all mandated health insurance services on employers' ability to purchase health benefits policies meeting their employees' needs.~~

~~(d) To the extent that funds or resources are available to the commission, the commission shall review existing mandated health insurance services and benefits under the requirements of this section and shall report its findings to the House Interim Committee on Public Health, Welfare, and~~

~~Labor and the Senate Interim Committee on Public Health, Welfare, and Labor on or before November 1 of each year. The commission shall include the findings in its report required to be submitted under § 23-79-905.~~

~~23-79-904. Contract services - Staff assistance.~~

~~(a) The Arkansas Advisory Commission on Mandated Health Insurance Benefits may contract for actuarial services and other professional services as needed.~~

~~(b) The State Insurance Department and other state agencies, as may be considered appropriate by the commission, shall provide staff assistance to the commission.~~

~~23-79-905. Submission of report.~~

~~Each December 31 immediately preceding a regular session of the General Assembly, the Arkansas Advisory Commission on Mandated Health Insurance Benefits shall submit a report on its findings, including any recommendations, to the Governor and the General Assembly.~~

~~23-79-906. Legislative review of proposed mandated health benefit laws.~~

~~(a)(1)(A)(i) If a bill is filed with the House of Representatives or the Senate or an interim study proposal is filed with the Legislative Council or an interim legislative committee and the bill or proposal contains a proposed mandated health insurance service or benefit, then the legislative committee of the General Assembly to which the bill or proposal is referred or the Legislative Council shall determine if a majority of the members of the legislative committee or the Legislative Council find that the bill or proposal appears to contain sufficient merit to warrant further consideration by the Arkansas Advisory Commission on Mandated Health Insurance Benefits.~~

~~(ii) A bill containing a mandated health insurance service or benefit shall not be enacted into law after January 1, 2006, unless the bill has been reviewed and evaluated by the commission pursuant to this subchapter.~~

~~(B) The legislative committee or the Legislative Council shall request a review of the bill from the commission if a majority of the members determines that the bill or proposal appears to contain sufficient~~

~~merit to warrant further consideration.~~

~~(2) No further action may be taken on the bill or proposal prior to obtaining a review from the commission.~~

~~(3) The commission shall review the bill or interim study proposal in accordance with this section and submit its evaluation within forty-five (45) days from the date the commission receives the referral of the bill or interim study proposal from the legislative committee or Legislative Council.~~

~~(b) The report by the commission on its review and evaluation of the bill or interim study proposal shall include the following:~~

~~(1) The social impact of mandating the benefit, including:~~

~~(A) The extent to which the treatment or service is utilized by a significant portion of the population;~~

~~(B) The extent to which the treatment or service is available to the population;~~

~~(C) The extent to which insurance coverage for this treatment or service is already available;~~

~~(D) If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;~~

~~(E) If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;~~

~~(F) The level of public demand and the level of demand from the providers for the treatment or service;~~

~~(G) The level of public demand and the level of demand from the providers for individual or group insurance coverage of the treatment or service;~~

~~(H) The level of interest in and the extent to which collective bargaining organizations are negotiating privately for inclusion of this coverage in group contracts;~~

~~(I) The likelihood of achieving the objectives of meeting a consumer need as evidenced by the experience of other states;~~

~~(J) The relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit;~~

~~(K) The alternatives to meeting the identified need;~~

~~(L) Whether the benefit is a medical or broader social need and whether it is consistent with the role of health insurance and the concept of managed care;~~

~~(M) The impact of any social stigma attached to the benefit upon the market;~~

~~(N) The impact of the benefit on the availability of other benefits currently being offered;~~

~~(O) The impact of the benefit as it relates to employers shifting to self-insured plans and the extent to which the benefit is currently being offered by employers with self-~~insured plans; and

~~(P) The impact of making the benefit applicable to state employees through the state employee health insurance program;~~

~~(2) The financial impact of mandating the benefit, including:~~

~~(A) The extent to which the proposed insurance coverage would increase or decrease the cost of the treatment or service over the next five (5) years;~~

~~(B) The extent to which the proposed coverage may increase the appropriate or inappropriate use of the treatment or service over the next five (5) years;~~

~~(C) The extent to which the mandated treatment or service may serve as an alternative for more expensive or less expensive treatment or service;~~

~~(D) The methods that will be instituted to manage the utilization and costs of the proposed mandate;~~

~~(E) The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five (5) years;~~

~~(F) The extent to which insurance coverage of the health care service or provider may reasonably be expected to increase or decrease the insurance premium and administrative expenses of policyholders;~~

~~(G) The impact of indirect costs other than premiums and the administrative costs on the question of costs and benefits of coverage;~~

~~(H) The impact of the coverage on the total cost of health care, including potential benefits and savings to insurers and employers because the proposed mandated treatment or service prevents disease or~~

~~illness or leads to the early detection and treatment of disease or illness that is less costly than treatment or service for later stages of a disease or illness;~~

~~(I) The effects of mandating the benefit on the cost of health care, particularly the premium and administrative expenses and indirect costs to employers and employees, including the financial impact on small employers, medium employers, and large employers; and~~

~~(J) The effect of the proposed mandate on cost-shifting between private and public payors of health care coverage and on the overall cost of the health care delivery system in this state; and~~

~~(3) The medical efficacy of mandating the benefit, including:~~

~~(A) The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service; and~~

~~(B) If the bill or proposal proposes to mandate coverage of an additional class of practitioners:~~

~~(i) The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered;~~

~~(ii) The methods of the appropriate professional organization that assures clinical proficiency; and~~

~~(iii) The effects of balancing the social, economic, and medical efficacy considerations, including:~~

~~(a) The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders;~~

~~(b) The extent to which the problem of coverage may be solved by mandating the availability of the coverage as an option for policyholders; and~~

~~(c) The cumulative impact of mandating the benefit in combination with existing mandates on the costs and availability of coverage.~~

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the General Assembly meets

only every second year; that the Arkansas Advisory Commission on Mandated Health Insurance Benefits unduly delays the deliberations of the General Assembly and interferes with the responsiveness of the Insurance *Department* in the face of the rapidly developing field of health care and with the provision of health care insurance; and that this act is immediately necessary to prevent continued slowing of both the health care and the health insurance processes. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ D. Johnson, et al

APPROVED: 3/16/2007