

INSURANCE CODE

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

SUBTITLE F. PHYSICIANS AND HEALTH CARE PROVIDERS

CHAPTER 1454. EQUAL HEALTH CARE FOR WOMEN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1454.001. DEFINITIONS. In this chapter:

(1) "Health care provider" means a home health aide, hospital, nurse practitioner, nurse midwife, outpatient care center, physician assistant, registered nurse, or surgery center.

(2) "Physician" has the meaning assigned by Section [151.002](#), Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.002. APPLICABILITY OF CHAPTER. 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:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter [842](#);
- (3) a fraternal benefit society operating under Chapter [885](#);
- (4) a stipulated premium company operating under Chapter [884](#);
- (5) a reciprocal exchange operating under Chapter [942](#);
- (6) a health maintenance organization operating under Chapter [843](#);
- (7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter [846](#);
- (8) an approved nonprofit health corporation that holds a certificate of authority under Chapter [844](#); or
- (9) a small employer health benefit plan written under

Chapter 1501.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

SUBCHAPTER B. REIMBURSEMENT FOR HEALTH CARE SERVICES

Sec. 1454.051. EQUAL REIMBURSEMENT REQUIRED. A health benefit plan issuer that reimburses a physician or health care provider for reproductive health or oncology services provided to women must reimburse the physician or provider in an amount at least equal to the annual average compensation per hour or unit that would be paid in the service area to a physician or provider for the same medical, surgical, hospital, pharmaceutical, nursing, or other similar resources used to provide the services if the resources would be used to provide health services exclusively to men or to the general population.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.052. REIMBURSEMENT FOR ABORTION NOT REQUIRED. This chapter does not require a health benefit plan issuer to provide reimbursement for an abortion, as defined by the Family Code, or for a service related to an abortion.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

SUBCHAPTER C. ENFORCEMENT

Sec. 1454.101. SANCTIONS AUTHORIZED. The sanctions authorized by Chapter 82 apply to a health benefit plan issuer that violates this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.102. CEASE AND DESIST PROCEDURES AND RESTITUTION FOR ATTORNEY'S FEES AUTHORIZED. The commissioner may use the cease and desist procedures authorized by Chapter 83 against a health benefit plan issuer that violates this chapter. In accordance with Chapter 83, the commissioner may order the health benefit plan issuer to make complete restitution for the violation, which may include restitution for the reasonable attorney's fees incurred by

a person making a complaint under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.103. ADMINISTRATIVE PENALTIES AUTHORIZED. (a) In addition to any sanctions authorized by this subchapter, the commissioner may impose an administrative penalty in accordance with Chapter 84 on a health benefit plan issuer that violates this chapter.

(b) On a finding that a health benefit plan issuer knowingly violated this chapter, the commissioner may impose in addition to the administrative penalty authorized by Section 84.022 an administrative penalty that does not exceed \$25,000.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.104. AMOUNT OF DAMAGES. Notwithstanding this subchapter, in imposing a sanction or penalty for a violation of this chapter, the commissioner may order a health benefit plan issuer to pay the greater of complete or economic damages.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.105. APPLICABILITY OF CERTAIN PROCEDURAL REQUIREMENTS TO SANCTIONS OR ADMINISTRATIVE PENALTIES. Subchapter C, Chapter 84, applies to the imposition of a sanction or administrative penalty under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.106. INTERVENTION IN PROCEEDING. (a) In a proceeding relating to the imposition by the commissioner of a sanction or administrative penalty under this chapter, a person affected by an order of the commissioner, including a physician or health care provider, may intervene in the proceeding by filing a notice of intervention with the commissioner. The commissioner shall provide an affected person a reasonable period to intervene.

(b) At the time the commissioner notifies a health benefit plan issuer of the issuer's opportunity for a hearing regarding an alleged violation, the commissioner shall notify each affected person of all relevant information regarding the hearing.

(c) A person who intervenes under this section has the rights and powers of a party under Chapter 2001, Government Code. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.107. TIME FOR COMMISSIONER'S DETERMINATION. Not later than the 120th day after the date a complaint alleging a violation of this chapter is filed with the department, the commissioner shall determine whether the alleged violation occurred and impose appropriate sanctions.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.108. FAILURE OF COMMISSIONER TO MAKE DETERMINATION BY ORDER; ACTION IN DISTRICT COURT. (a) If the commissioner fails to determine by order in the time prescribed by Section 1454.107 whether a violation alleged in a complaint filed under this chapter occurred, the person who filed the complaint may bring an action in district court for the violation.

(b) The action must be commenced not later than the first anniversary of the date by which the commissioner is required to make a determination under Section 1454.107.

(c) In an action filed under this section, a court may:

(1) impose the sanctions authorized by this subchapter or similar sanctions;

(2) assess an additional civil penalty of \$25,000 if the trier of fact finds the defendant knowingly violated this chapter; and

(3) award a claimant who prevails in an action filed under this section reasonable attorney's fees and court costs, including reasonable and necessary expert witness fees.

(d) On a finding by the court that an action filed under this section was groundless and brought in bad faith or brought for the purpose of harassment, the court shall award the defendant reasonable and necessary attorney's fees.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1454.109. APPEAL OF COMMISSIONER'S ORDER. (a) A person affected by an order of the commissioner regarding a

violation of this chapter, including a person who intervenes under Section [1454.106](#), may file an appeal in district court.

(b) The standard of review for an appeal filed under this section is substantial evidence.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.