



Physicians Caring for Texans

**House Insurance Committee**  
**Testimony by Ezequiel “Zeke” Silva III, MD, Texas Medical Association**  
**House Bill 3359 (Network Adequacy, Waiver Process and Contracting)**  
**by Rep. Greg Bonnen**  
*April 11, 2023*

---

Thank you, Chairman Oliverson, Vice-Chair Johnson, and committee members, for allowing me to testify today. I am Dr. Zeke Silva, an interventional radiologist in San Antonio, testifying on behalf of TMA in support of House Bill 3359.

Two parts of the bill I will address are the reforms to the waiver process and the contracting, which go hand in hand.

Much of the conversation on this bill – as well as many others this committee hears – is on the issue of physicians and health care providers being in network or out of network, and the contracts between providers and health insurers that determine this status. The contractual relationship exists because physicians want to be in network with the health insurance their patients have and because insurers need physicians in their network to deliver what is promised to enrollees. Many laws and regulations exist around this relationship to ensure the benefit to the patient has primacy above physicians or insurers, such as our state surprise billing law and prior authorization reforms. House Bill 3359 is another of these bills.

An essential component of any health insurance plan, such as a preferred provider benefit plan or exclusive provider benefit plan, is the network of physicians and providers the plan covers. For individuals, families, or businesses purchasing a plan and paying monthly premiums, there’s a general understanding that the health insurance you pay for comes with access to a variety of local physicians and facilities to cover your essential health care services.

The heart of the issue this bill seeks to address is the lack of accountability in the contracting process. Network adequacy standards are meant to hold health insurers accountable to employers and to patients by ensuring the health plan they pay for provides access to health care. However, under the current waiver process that exempts insurers from those standards, there is neither accountability to the patient nor an

incentive to contract with physicians and providers in good faith. The Texas Department of Insurance reports 90% of plans being marketed and sold in Texas do not meet minimum standards for network adequacy compliance. Unbeknownst to many consumers, these products are still available and are sold to families and businesses with waivers from the standards.

This lack of accountability, coupled with the passage of federal surprise billing laws that are favorable to insurers, has led to an increase in instances of health insurers refusing to negotiate with physicians in good faith.

What this often looks like in practice is take-it-or-leave-it contract offers to physicians with drastic cuts in payment rates. Other times, the insurer will implement unilateral material changes in the middle of the term of the contract. In any case, physicians and their practices have no negotiating leverage against health insurance companies that trade on the New York Stock Exchange, and thus the doctors are coerced into making an impossible choice between accepting untenably low rates or being forced out of network. Either decision risks the viability of their practice and business. When the laws meant to keep an insurer accountable in these instances are being flouted through a waiver process, you end up where we are today with 90% of plans having holes in their networks.

House Bill 3359 addresses these issues by limiting waiver renewals to good cause waivers, such as cases where there is a verified reason for network inadequacy, such as in rural areas where there might be limited physicians and providers of particular specialties. This would be accomplished through the public hearing requirement, adding a level of transparency to the process that benefits patients.

The bill also restores balance in the contracting process by prohibiting unilateral contract changes as well as any adverse material changes in physician or provider contracts unless both parties agree. These prohibitions keep both parties accountable to the patient and prevent any one side from taking advantage of their market share.

In addition to the bill author and the committee, we also want to thank the Texas Association of Health Plans for coming to the table and negotiating on this bill. We are in active conversations to seek an agreement on this contracting provision, as well as others throughout the bill.

Again, thank you, Mr. Chairman and committee members, for allowing me to testify today in support of House Bill 3359. I appreciate your work to improve transparency in health care and to put patient health and safety above all. I am happy to answer any questions.