



Physicians Caring for Texans



House Select Committee on Health Care Reform
Written Testimony on House Bill 700
Submitted by the Texas Medical Association, Texas Academy of Family Physicians,
and Texas Services Chapter of the American College of Physicians
March 30, 2023

Dear Chairman Harless and Committee Members,

On behalf of the Texas Medical Association, Texas Academy of Family Physicians, and Texas Services Chapter of the American College of Physicians, thank you for the opportunity to submit written comments respectfully “on” House Bill 700, which if enacted would replace the existing federally-facilitated health insurance marketplace (FFM) – also known as the “exchange” – with a state-run one instead.

First, we want to thank Dr. Oliverson for his continued dialogue with our organizations, and others, regarding our concerns with the bill as filed, and his solicitation of feedback to help address them. We appreciate Dr. Oliverson’s expertise on this issue as a House Insurance Committee member and now chair, in addition to his service on the National Council of Insurance Legislators. Dr. Oliverson has a keen understanding about marketplace operations and thus the enormity this undertaking would entail. Thus, we appreciate working with him on a committee substitute to ensure the legislation includes necessary guardrails to make sure any Texas-run Marketplace will be reliable, accurate, efficient, and cost-effective, while supporting ability of more Texans to obtain affordable, meaningful health insurance.

Currently, 2.4 million Texans obtain their health care insurance via the Marketplace, more than double the number who did so just three years ago. Indeed, the pace at which Texans have enrolled in Marketplace coverage over the past three years is faster than that of all other states, in part because of enhanced federal subsidies to make Marketplace plans much more affordable, particularly for low- and moderate-income individuals.

As a result, more Texans have the peace of mind that comes from knowing they have health insurance that will allow them to obtain the health care they need, when they need it, whether for routine care, such as annual physicals and cancer screenings; treatment of a chronic disease, such as diabetes; or coverage for an unexpected illness or injury – all without fear of financial hardship or even bankruptcy.

Likewise, the increase in the number of Texans with Marketplace-based health insurance also has helped steady the precarious financial footing many physician practices find themselves in after the COVID-19 pandemic. With more people enrolled in Marketplace plans, there are fewer uninsured patients, many of whom simply cannot afford to pay for their care, resulting in either high uncompensated care costs or people just not seeking care at all.

Texans who buy health insurance through the Marketplace do so via HealthCare.gov, a term synonymous with “fiasco” for the generation of physicians who experienced its chaotic debut in 2014 followed by glitchy behavior for the year or more to follow. However, today the Marketplace works exceptionally well for patients, physicians, providers, and payers. For organizations such as ours, whose members are skeptical of government-run anything, this is quite a feat. It also partially explains our hesitation to embrace a state-run option. If it’s not broken now, why fix it?

To date, 18 states operate a state-based Marketplace (SBM), while 3 have a hybrid. While there has been renewed interest in this option in recent year as states eye capturing a portion of the fees paid for the operation of the FFM, the creation of an SBM also poses considerable risks.

While people think of “HealthCare.gov” as just another website, it is much more than that. It’s more akin to starting a new state agency from scratch, one that must allow people to shop for and compare health insurance products and prices; accurately verify eligibility and income; accurately match premium subsidies and cost-sharing to the individual’s chosen health plan; provide health plan oversight; conduct outreach and education; and refer people to other coverage for which they’re potentially eligible instead, such as Medicaid, without missing a beat.

This is why Manatt, a health care consultancy, concluded, “the collective SBM experience suggests that establishing an SBM is a heavy lift and should not be undertaken lightly... Current [HealthCare.Gov] states could benefit from becoming SBMs if they are committed to state-specific goals.”¹

Several sessions ago, lawmakers approved overhauling the Medicaid provider enrollment system, something our organizations supported. However, when the new system launched, it did not go well, with myriad problems still occurring today despite the best intentions to create a better user experience.

Likewise, as this committee has heard on several occasions, Texas will begin “unwinding” from continuous Medicaid eligibility in just one day - April 1. Yet even before the process has begun, the 2-1-1 call center and website experienced serious outages this past week, with 2-1-1 still not restored to full functionality.

This is all to say, the best-laid plans often can and do go awry. And it is why our organizations, along with 17 others representing health plans, hospitals, providers, and consumers, feel strongly Texas must adopt clear principles (attached) and guardrails to inform the state’s design and implementation of a Texas-run SBM, in addition to any section 1332 federal waivers Texas might pursue as part of such an endeavor.

Among other measures, these principles seek to codify a commitment that any pursuit of an SBM will be part of larger strategy to ensure all Texans will have access to comprehensive, affordable health care coverage and that Texas will provide sufficient wherewithal to implement a state-based exchange, particularly in light of the very real administrative, technical, financial, and health system challenges such an undertaking would entail.

As the bill undergoes revisions to address stakeholder input, we respectfully ask that it include language to:

¹ Manatt, “[Technology Opportunities for the ACA Marketplaces](#),” Dec. 2020

- Clearly define the SBM’s purpose, consistent with the enclosed principles. Nevada, for example, included a preamble in its SBM statutory framework to articulate the SBM’s role and purpose to stakeholders, policymakers and regulators;
- Establish clear expectations that premium tax credits and cost-sharing subsidies for low-income individuals will continue. As noted above, nearly 2.5 million Texans currently have insurance via the Marketplace, most of them employees with low incomes, including those working for small businesses. As this number grows in later years, we strongly support efforts to extend health care coverage to more small businesses, it will be imperative that Texas do so without compromising affordability for other Marketplace enrollees, many of whom themselves work for small employers;
- Clearly define the SBM’s function, including:
 - Navigator services to help individuals understand and connect to health insurance coverage best for them, including connecting them to Medicaid or other programs, if eligible;
 - Vigorous outreach and education initiatives regarding health care coverage options available via the SBM; and
 - Fully funded customer service;
- Ensure plans operating within the SBM comply in accordance with federal consumer and provider protections; and
- Establish a realistic implementation timeframe as well as a requirement that the vendor demonstrate readiness prior to launching the SBM.

Rarely do organized medicine, provider organizations, health plans, hospitals, and consumer groups agree on anything, but such is the level of concern about the potential laws of unintended consequences, even with a bill introduced with the best intentions.

We philosophically have no objection to an SBM per se. Yet it is vital that all stakeholders have a better understanding of the impetus for the bill, including how any potential savings might be allocated, which is not stipulated in the bill. Moreover, we support inclusion of provisions to help ensure that a Texas Marketplace will perform as good or better than the existing one, while covering more Texans with meaningful, affordable health insurance, whether they be small business owners, employees, or working parents and adults.

Our organizations look forward to continued dialogue with this committee and Dr. Oliverson as the bill moves forward. If you have any questions, please contact Ben Wright, TMA director of public affairs, at ben.wright@texmed.org or Helen Kent Davis, TMA associate vice president of governmental affairs, at helen.davis@texmed.org.

Thank you for your consideration.

Tilden Childs III, MD, Chair
TMA Council on Legislation



Principles for a Texas-Run Health Insurance Marketplace and Health Care Innovation Waiver

The Texas Health Insurance Marketplace is booming. In 2023, a record 2.4 million Texans signed up for quality, affordable coverage.² Texas’ enrollment growth rate has outpaced all states for three years running, and more insurers compete in the Texas Marketplace than in any other state. As a result, Texas’ uninsured rate has declined, helping Texans get the health care they need, making it easier for Texans to start their own business, and improving financial viability of health care providers and physicians by reducing unpaid services.

Texas, like most states,³ uses the federal Marketplace platform HealthCare.Gov to offer insurance options to eligible Texans. Despite its rocky initial rollout in 2014, HealthCare.Gov works extremely well for consumers, health care providers, physicians, and health plans, efficiently connecting people to health care coverage.

In recent years, a few states have transitioned from HealthCare.Gov to a state-based Marketplace (SBM) and have re-directed a portion of the Marketplace user fees for a purpose other than operating the Marketplace. Additionally, states hope more flexibility to administer the SBM will allow them to innovate regarding health care coverage. However, implementation of an SBM also poses considerable risks. It would disrupt a system that is working well and create the risk of unplanned costs to the state, coverage losses, major technology failures, and a poor consumer experience. A report by Manatt concluded, “the collective SBM experience suggests that establishing an SBM is a heavy lift and should not be undertaken lightly... current [HealthCare.Gov] states could benefit from becoming SBMs if they are committed to state-specific goals.”⁴

This is because the Marketplace is more than a website; it is an agency. For consumers, it is like a health shopping mall where self-employed Texans, small business employees, and others not offered affordable coverage at work can compare comprehensive health insurance plans and choose the one best for them. Behind the scenes, the Marketplace performs complex functions, including eligibility determinations, subsidy administration, health plan oversight and management, and consumer outreach and education.

House Bill 700 would establish a Texas-run SBM. If Texas chooses this option, it is imperative that it establish clear policy goals and timelines as well as an understanding of the significant administrative, technical, financial, and health system challenges such an undertaking will entail.

Alone or in addition to establishing an SBM, federal law also allows states to experiment with health care coverage

² KFF, [Texas Marketplace Enrollment, 2014-2023](#)

³ KFF, [State Health Insurance Marketplace Types, 2023](#)

⁴ Manatt, “[Technology Opportunities for the ACA Marketplaces](#),” Dec. 2020

initiatives by pursuing federal “1332 waivers,” named after the portion of the Affordable Care Act authorizing them.

If Texas considers creating a state-based Marketplace and/or pursuing a 1332 waiver, our organizations support establishing the following principles and goals:

- 1. Increase enrollment in comprehensive, affordable health care coverage.** Legislation should ensure that Texas keeps what is working well today: comprehensive and affordable Marketplace coverage. All Marketplace coverage should be subject to community rating, guaranteed issue, essential health benefits, cost-sharing limits, and a prohibition on pre-existing condition exclusions. Texas should maintain true affordability protections that ensure premiums do not exceed a percentage of income.
- 2. Be part of a comprehensive approach to extending quality coverage to the uninsured in Texas, including adults working in low-wage jobs.** More than 5 million Texans lack health care coverage. Reducing this number will require a multi-pronged strategy. A Texas state-based Marketplace should work in tandem with other coverage strategies, including using federal Medicaid funds to cover low-wage adults and parents who *do not* qualify for Marketplace waiver coverage. To date, Texas is one of 11 states yet to extend coverage to this population.
- 3. Implement a seamless transition between Medicaid and the Marketplace.** In many families, parents are eligible for the Marketplace while their kids are eligible for Medicaid. Fragmented eligibility reviews between Medicaid and the Marketplace – whether the Marketplace is federal or state-based – create barriers when people move between programs. Without true eligibility system integration, Texans will get bounced between systems, disrupting continuity of care in addition to creating administrative hassles and costs for physicians and health care providers.
- 4. Match or exceed federal investments in marketing, outreach, and community-based enrollment assistance.** Such investments promote enrollment as well as foster a healthier risk pool, help maintain a stable market, and lower premiums.⁵ Too few uninsured people are aware of Marketplace subsidies.⁶ Enrolling in, renewing, and understanding health coverage is complicated. Robust community-based enrollment assistance is critical, particularly for reaching low-income and uninsured individuals, people who need assistance in a language other than English, and people with complex circumstances.
- 5. Ensure Marketplace funding is sufficient for a smooth transition and to provide robust consumer services.** Any decision to redirect user fees from Texas-based Marketplace operations should not be made until the SBM has operated successfully for at least two years. A Texas-run Marketplace should aim to continually improve upon the user experience.
- 6. Marketplace implementation and operations, including the design of any state subsidy or waiver, should be data-driven, and guided by an enduring, formal advisory committee.** Texas should create an advisory committee comprising diverse stakeholders – including consumers, physicians and providers, and insurers – to guide implementation of the state Marketplace and design of any state subsidy and waiver. Subsidy and waiver design should be research- and data-driven to maximize enrollment in quality, affordable coverage.
- 7. The Marketplace should be transparent and accountable.** Marketplace implementation and operations should be transparent and provide ample opportunity for public input. Marketplace vendor contracts should be competitively bid.
- 8. Direct the Texas Department of Insurance to enforce Affordable Care Act market rules.** States that run a Marketplace must certify that health plans adhere to ACA rules. TDI will need both the authority and sufficient staff to enforce ACA market reforms alongside a state Marketplace. Texas is one of only four states that does not perform this function today.⁷

⁵ Covered California, “Marketing Matters,” Sept. 2017

⁶ Urban Institute “[Uninsured Adults’ Marketplace Knowledge Gaps Persisted in April 2021](#),” Sept. 28, 2021

⁷ CCIIO, [Ensuring Compliance with the Health Insurance Market Reforms](#)