

TX HB711

Texas 88th Legislature
***An ACT relating to contract provisions and conduct affecting
healthcare provider networks.***
Bill Author: James Frank (R)

Rep. James Frank authored HB711 to encourage market competition and help employers and other healthcare purchasers combat unsustainable and rising healthcare costs.

“As nearly 50% of Texans get their health insurance through their employer, I filed this legislation to empower employers to make insurance and healthcare more affordable and attainable for their employees. When we remove predatory behaviors in the marketplace it lowers healthcare costs for all Texans.”

Healthcare Prices Are Out of Control and Require a United Employer Voice

- **Anti-competitive contract practices have inflated the costs of healthcare at the expense of Texas employers, their employees, and their families.**
- **Concentrated market power has reduced the beneficial impacts of competition, and the resulting monopoly-like power is being abused.**
- **Hospital prices have increased 150% more than the average worker hourly earnings in the past 20 years.**
- **No employer in a consolidated market has enough consumers to influence prices.**
- **The crisis requires legislators to pass sensible legislation to increase competition.**
- **Employers who fund the majority of healthcare in Texas are the only voice that will drive meaningful legislative change.**

**HB711 will prohibit the following
anti-competitive practices in contracts:**

Anti-Steering Clauses restricts the ability of employer from encouraging an enrollee to obtain a healthcare service from a competitor of an in-network hospital or health system, including offering incentives to encourage enrollees to utilize specific higher value (better quality and lower price) providers.

Example of beneficial activity prevented by these clauses:

Employer to employee: Hospital A is in our network, but we prefer that you visit hospital B, which has higher quality scores and lower copays.

Anti-Tiering Clauses restricts the ability of the employer to introduce or modify a tiered network plan or assign health care providers into tiers based on value (better quality and lower price), including offering enrollee incentives.

Example of anti-tiering clause:

If you visit hospital A, we will waive your deductible and any other out-of-pocket expenses. If you visit any other hospital in our network, your normal \$1,000 deductible applies.

Gag Clauses keep hospitals and health plans from revealing their payment rates or other contractual provisions. Health plans use gag clauses to hide the prices they pay from competitors and clients. Likewise, hospitals use gag clauses so that other hospitals, health plans, or employers from finding out actual payment provisions of contract.

Examples of Gag Clauses <https://txeahc.org/gag-clause/>

Most Favored Nations Clauses, also referred to as “most favored customer” clauses guarantee a health plan the same best price as their competitors. This prohibits healthcare providers from contracting at lower rates for smaller or newer health plans (or cash-pay or uninsured customers) and allows large and established health plans to maintain their market share.

To pass HB711 Texas Employers for Affordable Healthcare (<https://txeahc.org/>) needs a broad support of Texas employers, including the following asks:

- Place your company logo in support of legislation to prohibit anti-competitive practices on <https://txeahc.org/take-action-now/>.
- Tell your story – provide a short testimonial (2-3 sentences) about your experience dealing with healthcare prices for your company and your employees and its negative impact.
- Sign on to a letter with other businesses calling on the legislature to act to address the rising healthcare costs for your business by supporting TXEAHC (we will provide sample language and include a list of companies that have agreed to sign).
- Reach out to your local state representative and state senator, based on where your company is headquartered or where your employees are based. You can search by address, county or city here: <https://wrm.capitol.texas.gov/home>.
- Testify at the Capitol – During the legislative session, HB711 will have committee hearings in each chamber. During these hearings the senators and state representatives want to hear from individuals that are impacted by these practices and increasing healthcare prices.