

By: Harris, et al.

H.B. No. 1919

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain prohibited practices for certain health benefit  
3 plan issuers and certain required and prohibited practices for  
4 certain pharmacy benefit managers, including pharmacy benefit  
5 managers participating in the Medicaid and child health plan  
6 programs.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Chapter [1369](#), Insurance Code, is amended by  
9 adding Subchapter L to read as follows:

10 SUBCHAPTER L. AFFILIATED PROVIDERS

11 Sec. 1369.551. DEFINITIONS. In this subchapter:

12 (1) "Affiliated provider" means a pharmacy or durable  
13 medical equipment provider that directly, or indirectly through one  
14 or more intermediaries, controls, is controlled by, or is under  
15 common control with a health benefit plan issuer or pharmacy  
16 benefit manager.

17 (2) "Health benefit plan" has the meaning assigned by  
18 Section [1369.251](#).

19 (3) "Pharmacy benefit manager" has the meaning  
20 assigned by Section [4151.151](#).

21 Sec. 1369.552. TRANSFER OR ACCEPTANCE OF CERTAIN RECORDS  
22 PROHIBITED. (a) In this section, "commercial purpose" does not  
23 include pharmacy reimbursement, formulary compliance,  
24 pharmaceutical care, utilization review by a health care provider,

1 or a public health activity authorized by law.

2 (b) A health benefit plan issuer or pharmacy benefit manager  
3 may not transfer to or receive from the issuer's or manager's  
4 affiliated provider a record containing patient- or  
5 prescriber-identifiable prescription information for a commercial  
6 purpose.

7 Sec. 1369.553. PROHIBITION ON CERTAIN COMMUNICATIONS. (a)

8 A health benefit plan issuer or pharmacy benefit manager may not  
9 steer or direct a patient to use the issuer's or manager's  
10 affiliated provider through any oral or written communication,  
11 including:

- 12 (1) online messaging regarding the provider; or  
13 (2) patient- or prospective patient-specific  
14 advertising, marketing, or promotion of the provider.

15 (b) This section does not prohibit a health benefit plan  
16 issuer or pharmacy benefit manager from including the issuer's or  
17 manager's affiliated provider in a patient or prospective patient  
18 communication, if the communication:

- 19 (1) is regarding information about the cost or service  
20 provided by pharmacies or durable medical equipment providers in  
21 the network of a health benefit plan in which the patient or  
22 prospective patient is enrolled; and

- 23 (2) includes accurate comparable information  
24 regarding pharmacies or durable medical equipment providers in the  
25 network that are not the issuer's or manager's affiliated  
26 providers.

27 Sec. 1369.554. PROHIBITION ON CERTAIN REFERRALS AND

1 SOLICITATIONS. (a) A health benefit plan issuer or pharmacy  
2 benefit manager may not require a patient to use the issuer's or  
3 manager's affiliated provider in order for the patient to receive  
4 the maximum benefit for the service under the patient's health  
5 benefit plan.

6 (b) A health benefit plan issuer or pharmacy benefit manager  
7 may not offer or implement a health benefit plan that requires or  
8 induces a patient to use the issuer's or manager's affiliated  
9 provider, including by providing for reduced cost-sharing if the  
10 patient uses the affiliated provider.

11 (c) A health benefit plan issuer or pharmacy benefit manager  
12 may not solicit a patient or prescriber to transfer a patient  
13 prescription to the issuer's or manager's affiliated provider.

14 (d) A health benefit plan issuer or pharmacy benefit manager  
15 may not require a pharmacy or durable medical equipment provider  
16 that is not the issuer's or manager's affiliated provider to  
17 transfer a patient's prescription to the issuer's or manager's  
18 affiliated provider without the prior written consent of the  
19 patient.

20 SECTION 2. Subchapter B, Chapter 531, Government Code, is  
21 amended by adding Section 531.0695 to read as follows:

22 Sec. 531.0695. REQUIRED FEE SCHEDULE FOR CERTAIN PHARMACY  
23 BENEFITS PROVIDED UNDER MEDICAID OR CHILD HEALTH PLAN PROGRAM. (a)  
24 In this section, "pharmacy benefit manager" has the meaning  
25 assigned by Section 4151.151, Insurance Code.

26 (b) A contract between a pharmacy benefit manager and a  
27 managed care organization that contracts with the commission to

1 provide pharmacy benefits under Medicaid or the child health plan  
2 program must contain a requirement that the pharmacy benefit  
3 manager have a fee schedule that applies to each pharmacy or  
4 pharmacist with which the pharmacy benefit manager contracts. The  
5 contract between the pharmacy benefit manager and the pharmacy or  
6 pharmacist must refer to the fee schedule and the pharmacy benefit  
7 manager shall provide the fee schedule:

8 (1) in the contract; or

9 (2) separately in an easy-to-access, electronic  
10 spreadsheet format and, on request by the pharmacy or pharmacist,  
11 in writing.

12 (c) A fee schedule provided under Subsection (b) must  
13 describe:

14 (1) specific pharmacy benefits that the pharmacy or  
15 pharmacist may deliver and the amount of the corresponding  
16 reimbursement for those benefits;

17 (2) the methodology used to calculate the  
18 reimbursement for specific pharmacy benefits; or

19 (3) another reasonable method that a pharmacy or  
20 pharmacist may use to ascertain the corresponding reimbursement  
21 amount for a specific pharmacy benefit.

22 SECTION 3. Sections 1369.554(a) and (b), Insurance Code, as  
23 added by this Act, apply only to a health benefit plan delivered,  
24 issued for delivery, or renewed on or after the effective date of  
25 this Act.

26 SECTION 4. Section 531.0695, Government Code, as added by  
27 this Act, applies only to a contract entered into or renewed on or

1 after the effective date of this Act. A contract entered into or  
2 renewed before the effective date of this Act is governed by the law  
3 as it existed immediately before the effective date of this Act, and  
4 that law is continued in effect for that purpose.

5 SECTION 5. If before implementing any provision of this Act  
6 a state agency determines that a waiver or authorization from a  
7 federal agency is necessary for implementation of that provision,  
8 the agency affected by the provision shall request the waiver or  
9 authorization and may delay implementing that provision until the  
10 waiver or authorization is granted.

11 SECTION 6. This Act takes effect September 1, 2021.