

By: Harris of Anderson

H.B. No. 1647

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage of clinician-administered drugs.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter Q to read as follows:

SUBCHAPTER Q. CLINICIAN-ADMINISTERED DRUGS

Sec. 1369.761. DEFINITIONS. In this subchapter:

(1) "Administer" means to directly apply a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(2) "Clinician-administered drug" means an outpatient prescription drug other than a vaccine that:

(A) cannot reasonably be:

(i) self-administered by the patient to whom the drug is prescribed; or

(ii) administered by an individual assisting the patient with the self-administration; and

(B) is typically administered:

(i) by a physician or other health care provider authorized under the laws of this state to administer the drug, including when acting under a physician's delegation and supervision; and

(ii) in a physician's office.

1           (3) "Health care provider" means an individual who is  
2 licensed, certified, or otherwise authorized to provide health care  
3 services in this state.

4           (4) "Physician" means an individual licensed to  
5 practice medicine in this state.

6           Sec. 1369.762. APPLICABILITY OF SUBCHAPTER. (a) This  
7 subchapter applies only to a health benefit plan that provides  
8 benefits for medical or surgical expenses incurred as a result of a  
9 health condition, accident, or sickness, including an individual,  
10 group, blanket, or franchise insurance policy or insurance  
11 agreement, a group hospital service contract, or an individual or  
12 group evidence of coverage or similar coverage document that is  
13 offered by:

14           (1) an insurance company;

15           (2) a group hospital service corporation operating  
16 under Chapter 842;

17           (3) a health maintenance organization operating under  
18 Chapter 843;

19           (4) an approved nonprofit health corporation that  
20 holds a certificate of authority under Chapter 844;

21           (5) a multiple employer welfare arrangement that holds  
22 a certificate of authority under Chapter 846;

23           (6) a stipulated premium company operating under  
24 Chapter 884;

25           (7) a fraternal benefit society operating under  
26 Chapter 885;

27           (8) a Lloyd's plan operating under Chapter 941; or

1           (9) an exchange operating under Chapter 942.

2           (b) Notwithstanding any other law, this subchapter applies  
3 to:

4           (1) a small employer health benefit plan subject to  
5 Chapter 1501, including coverage provided through a health group  
6 cooperative under Subchapter B of that chapter;

7           (2) a standard health benefit plan issued under  
8 Chapter 1507;

9           (3) group health coverage made available by a school  
10 district in accordance with Section 22.004, Education Code;

11           (4) a regional or local health care program operating  
12 under Section 75.104, Health and Safety Code; and

13           (5) a self-funded health benefit plan sponsored by a  
14 professional employer organization under Chapter 91, Labor Code.

15           Sec. 1369.763. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

16           (a) This subchapter does not apply to an issuer or provider of  
17 health benefits under or a pharmacy benefit manager administering  
18 pharmacy benefits under:

19           (1) the state Medicaid program, including the Medicaid  
20 managed care program under Chapter 533, Government Code;

21           (2) the child health plan program under Chapter 62,  
22 Health and Safety Code;

23           (3) the TRICARE military health system; or

24           (4) a workers' compensation insurance policy or other  
25 form of providing medical benefits under Title 5, Labor Code.

26           (b) This subchapter does not apply to a prescription drug  
27 administered in a hospital, hospital facility-based practice

1 setting, or hospital outpatient infusion center.

2 Sec. 1369.764. CERTAIN LIMITATIONS ON COVERAGE OF  
3 CLINICIAN-ADMINISTERED DRUGS PROHIBITED. (a) Subject to  
4 Subsection (b), a health benefit plan issuer may not, for an  
5 enrollee with a chronic, complex, rare, or life-threatening medical  
6 condition:

7 (1) require clinician-administered drugs to be  
8 dispensed only by certain pharmacies or only by pharmacies  
9 participating in the health benefit plan issuer's network;

10 (2) if a clinician-administered drug is otherwise  
11 covered, limit or exclude coverage for such drugs based on the  
12 enrollee's choice of pharmacy or because the drug was not dispensed  
13 by a pharmacy that participates in the health benefit plan issuer's  
14 network;

15 (3) require a physician or health care provider  
16 participating in the health benefit plan issuer's network to bill  
17 for or be reimbursed for the delivery and administration of  
18 clinician-administered drugs under the pharmacy benefit instead of  
19 the medical benefit without:

20 (A) informed written consent of the patient; and

21 (B) a written attestation by the patient's  
22 physician or health care provider that a delay in the drug's  
23 administration will not place the patient at an increased health  
24 risk; or

25 (4) require that an enrollee pay an additional fee,  
26 higher copay, higher coinsurance, second copay, second  
27 coinsurance, or any other price increase for

1 clinician-administered drugs based on the enrollee's choice of  
2 pharmacy or because the drug was not dispensed by a pharmacy that  
3 participates in the health benefit plan issuer's network.

4 (b) Subsection (a) applies only if the patient's physician  
5 or health care provider determines that:

6 (1) a delay of care would make disease progression  
7 probable; or

8 (2) the use of a pharmacy within the health benefit  
9 plan issuer's network would:

10 (A) make death or patient harm probable;

11 (B) potentially cause a barrier to the patient's  
12 adherence to or compliance with the patient's plan of care; or

13 (C) because of the timeliness of the delivery or  
14 dosage requirements, necessitate delivery by a different pharmacy.

15 (c) Nothing in this section may be construed to:

16 (1) authorize a person to administer a drug when  
17 otherwise prohibited under the laws of this state or federal law; or

18 (2) modify drug administration requirements under the  
19 laws of this state, including any requirements related to  
20 delegation and supervision of drug administration.

21 SECTION 2. Subchapter Q, Chapter 1369, Insurance Code, as  
22 added by this Act, applies only to a health benefit plan that is  
23 delivered, issued for delivery, or renewed on or after January 1,  
24 2024.

25 SECTION 3. This Act takes effect September 1, 2023.