

By: Harrison

H.B. No. 4347

A BILL TO BE ENTITLED

AN ACT

relating to the application of prescription drug price reductions;
imposing a civil penalty.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by
adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. PRESCRIPTION DRUG PRICE REDUCTIONS

Sec. 1369.085. DEFINITIONS. In this subchapter:

(1) "Manufacturer" means anyone who is engaged in making, preparing, propagating, fabricating, compounding, processing, packaging, repackaging, labeling or relabeling of a prescription drug or biological product.

(2) "Pharmacy benefit manager" and "prescription drug" have the meanings assigned by Section 1369.501.

Sec. 1369.086. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is issued by:

(1) an insurance company;

(2) a group hospital service corporation operating

1 under Chapter 842;

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

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

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

8 (6) a stipulated premium company operating under
9 Chapter 884;

10 (7) a fraternal benefit society operating under
11 Chapter 885;

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

13 (9) an exchange operating under Chapter 942.

14 (b) Notwithstanding any other law, this subchapter applies
15 to:

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

19 (2) a standard health benefit plan issued under
20 Chapter 1507;

21 (3) a basic coverage plan under Chapter 1551;

22 (4) a basic plan under Chapter 1575;

23 (5) a primary care coverage plan under Chapter 1579;

24 (6) a plan providing basic coverage under Chapter
25 1601;

26 (7) health benefits provided by or through a church
27 benefits board under Subchapter I, Chapter 22, Business

1 Organizations Code;

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

4 (9) a regional or local health care program operated
5 under Section 75.104, Health and Safety Code;

6 (10) a self-funded health benefit plan sponsored by a
7 professional employer organization under Chapter 91, Labor Code;

8 (11) county employee group health benefits provided
9 under Chapter 157, Local Government Code; and

10 (12) health and accident coverage provided by a risk
11 pool created under Chapter 172, Local Government Code.

12 Sec. 1369.087. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

13 This subchapter does not apply to an issuer or provider of health
14 benefits under or a pharmacy benefit manager administering pharmacy
15 benefits under:

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

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

20 (3) the TRICARE military health system; or

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

23 Sec. 1369.088. APPLICATION OF PRICE REDUCTIONS. (a) A

24 pharmacy benefit manager that obtains, directly or indirectly, from
25 a manufacturer a reduction in price, whether by discount, rebate,

26 or otherwise, on a prescription drug, on behalf of a health benefit
27 plan issuer or on its own behalf, shall ensure through contracts

1 with the health benefit plan issuer, manufacturer, pharmacy, or any
2 other necessary party that the reduction in price is reflected
3 completely in the price of the prescription drug when it is
4 dispensed to a health benefit plan enrollee at a pharmacy.

5 (b) Charging the patient a fixed dollar copayment less than
6 the net price negotiated by the pharmacy benefit manager or health
7 plan satisfies the intent of this section.

8 (c) Any coinsurance charged by the pharmacy benefit manager
9 or health plan shall be calculated off the net price that reflects
10 the reduction in price by discount, rebate, or otherwise negotiated
11 with the manufacturer.

12 (d) The pharmacy benefit manager or health plan may provide
13 the full price reduction provided by the manufacturer directly to
14 the dispensing pharmacy or require the manufacturer to provide the
15 full price reduction, directly or indirectly, through a
16 point-of-sale chargeback or series of point-of-sale chargebacks or
17 as otherwise required by law.

18 Sec. 1369.089. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A
19 pharmacy benefit manager that violates Section 1369.088 is liable
20 to the state for a civil penalty of three times the total amount of
21 the price reduction that was not reflected in the price of the
22 prescription drug at the time it was dispensed plus \$5,000 for each
23 violation that occurs.

24 (b) The attorney general may bring an action in the name of
25 the state against a person that violates Section 1369.088 for:

26 (1) injunctive relief;

27 (2) recovery of a civil penalty imposed under this

1 section; or

2 (3) both injunctive relief and a civil penalty.

3 (c) An action under this section may be brought in a
4 district court in:

5 (1) Travis County; or

6 (2) a county in which any part of the violation occurs.

7 SECTION 2. Subchapter B-2, Chapter 1369, Insurance Code, as
8 added by this Act, applies only to a health benefit plan delivered,
9 issued for delivery, or renewed on or after January 1, 2024.

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