

BILL ANALYSIS

Senate Research Center

S.B. 2423
By: Deuell
Health & Human Services
8/3/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation seeks to protect the information of patients and providers during prescription processing in certain discount health care programs. Specifically, the bill seeks to ensure the application of existing regulations relating to discount health care programs and discount health care program operators to those entities that do not charge fees or other considerations for their programs, but do receive alternate consideration in the form of access to patient information.

S.B. 2423 amends current law relating to the transfer or sale of patient information or prescription drug history by discount health care programs and provides penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 76.001(3) and (4), Health and Safety Code, as follows:

(3) Redefines "discount health care program" (program). Provides that for purposes of this subsection, consideration includes patient information or patient prescription drug history provided by members, if the entity engages in the transfer or sale of such patient information, patient prescription drug history, or drug manufacturer rebates.

(4) Redefines "discount health care program operator" (program operator). Provides that for purposes of this subsection, consideration includes patient information or patient prescription drug history provided by members, if the person engages in the transfer or sale of such patient information, patient prescription drug history, or drug manufacturer rebates.

SECTION 2. Amends Section 76.053, Health and Safety Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires a program operator, if the program operator engages in the transfer or sale of a member's patient information or patient prescription drug history, before enrollment, to provide each prospective member disclosure materials describing the program operator's practices regarding such transfer or sale.

(b) Requires a marketer to use disclosure materials that comply with this section, rather than Subsection (a) (relating to the requirement of a program manager to, at a certain time, provide each prospective or new member certain disclosure materials).

SECTION 3. Amends Title 21, Insurance Code, by adding Chapter 7002, as follows:

CHAPTER 7002. SUPPLEMENTAL PROVISIONS RELATING TO DISCOUNT HEALTH CARE OPERATORS

Sec. 7002.001. DEFINITION. Provides that for purposes of Chapters 562 and 7001, Insurance Code, consideration provided to a program or a program operator includes patient information or patient prescription drug history provided by members, if the entity

engages in the transfer or sale of such patient information, patient prescription drug history, or drug manufacturer rebates.

Sec. 7002.002. **REQUIRED DISCLOSURE.** Requires the program operator, if a program operator engages in the transfer or sale of a member's patient information or patient prescription drug history, before enrollment, to provide each prospective member disclosure materials describing the program operator's practices regarding such transfer or sale.

Sec. 7002.003. **VIOLATION; PENALTIES.** Authorizes a violation of this chapter to be enforced in the same manner as a violation of Chapter 562 or 7001.

SECTION 4. (a) Provides that Sections 1 and 2 of this Act take effect only if H.B. 4341 or S.B. 2339, Acts of the 81st Legislature, Regular Session, 2009, or another Act of the 81st Legislature, Regular Session, 2009, enacting Chapter 562 and Title 21, Insurance Code, concerning programs is not enacted or does not become law.

(b) Provides that Section 3 of this Act takes effect only if H.B. 4341 or S.B. 2339, Acts of the 81st Legislature, Regular Session, 2009, or another Act of the 81st Legislature, Regular Session, 2009, enacting Chapter 562 and Title 21, Insurance Code, concerning programs is enacted and becomes law.

SECTION 5. Effective date: September 1, 2009.