AN ACT relating to health benefit plan coverage for orally administered anticancer medications.

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

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

SUBCHAPTER E. COVERAGE FOR ORALLY ADMINISTERED ANTICANCER MEDICATIONS

Sec. 1369.201. DEFINITIONS. In this subchapter:

(1) "Health benefit exchange" means an American Health Benefit Exchange administered by the federal government or created pursuant to Section 1311(b), Patient Protection and Affordable Care Act (42 U.S.C. Section 18031).

(2) "Qualified health plan" has the meaning assigned by Section 1301(a), Patient Protection and Affordable Care Act (42 U.S.C. Section 18021).

Sec. 1369.202. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, 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 offered by:

(1) an insurance company;

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

(3) a fraternal benefit society operating under
Chapter 885;

(4) a stipulated premium company operating under
Chapter 884;

(5) an exchange operating under Chapter 942;

(6) a Lloyd's plan operating under Chapter 941;

(7) a health maintenance organization operating under
Chapter 843; or

(8) an approved nonprofit health corporation that
holds a certificate of authority under Chapter 844.

Sec. 1369.203. EXCEPTION. (a) This subchapter does not
apply to:

(1) a plan that provides coverage:

(A) only for fixed indemnity benefits for a
specified disease or diseases;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a
period during which an employee is absent from work because of
sickness or injury;

(D) as a supplement to a liability insurance
policy;

(E) only for dental or vision care; or
only for indemnity for hospital confinement; 
(2) a Medicare supplemental policy as defined by 
Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss); 
(3) a workers' compensation insurance policy; 
(4) medical payment insurance coverage provided under 
an automobile insurance policy; 
(5) a credit insurance policy; 
(6) a limited benefit policy that does not provide 
coverage for physical examinations or wellness exams; 
(7) a multiple employer welfare arrangement that holds 
a certificate of authority under Chapter 846; or 
(8) a long-term care insurance policy, including a 
nursing home fixed indemnity policy, unless the commissioner 
determines that the policy provides benefit coverage so 
comprehensive that the policy is a health benefit plan as described 
by Section 1369.201.

(b) This subchapter does not apply to a qualified health 
plan offered through a health benefit exchange.

Sec. 1369.204. REQUIRED COVERAGE FOR ORALLY ADMINISTERED 
ANTICANCER MEDICATIONS. (a) A health benefit plan that provides 
coverage for cancer treatment must provide coverage for a 
prescribed, orally administered anticancer medication that is used 
to kill or slow the growth of cancerous cells on a basis no less 
favorable than intravenously administered or injected cancer 
medications that are covered as medical benefits by the plan.

(b) This section does not prohibit a health benefit plan 
from requiring prior authorization for an orally administered
anticancer medication. If an orally administered anticancer medication is authorized, the cost to the covered individual may not exceed the coinsurance or copayment that would be applied to a chemotherapy or other cancer treatment visit.

(c) A health benefit plan issuer may not reclassify anticancer medications or increase a coinsurance, copayment, deductible, or other out-of-pocket expense imposed on anticancer medications to achieve compliance with this section. Any plan change that otherwise increases an out-of-pocket expense applied to anticancer medications must also be applied to the majority of comparable medical or pharmaceutical benefits under the plan.

(d) This section does not prohibit a health benefit plan issuer from increasing cost-sharing for all benefits, including anticancer treatments.

SECTION 2. Subchapter E, Chapter 1369, Insurance Code, as added by this Act, applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2012. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2012, is covered by the law in effect at the time the plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.
H.B. No. 438

President of the Senate              Speaker of the House

I certify that H.B. No. 438 was passed by the House on April 21, 2011, by the following vote: Yeas 147, Nays 1, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 438 was passed by the Senate on May 10, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: _______________________
Date

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Governor