

BILL ANALYSIS

H.B. 3455
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Statutory provisions referred to as the any willing pharmacy law protect the right of patients to visit the pharmacy of their choice and a pharmacy's right to continue to serve its patients. However, interested parties contend that the Texas Department of Insurance (TDI) stopped enforcing that law after a federal court ruled that it was preempted by federal law. Those parties further contend that the U.S. Supreme Court subsequently ruled that the federal law did not preempt a similar law in another state, but TDI has not resumed enforcement of the Texas law.

Interested parties also assert that insurance plan designs increasingly restrict patient access to pharmacies, requiring active enforcement of the any willing pharmacy laws in Texas. H.B. 3455 seeks to ensure that TDI enforces the state's any willing pharmacy law and monitors compliance with such law by Texas health plans.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

H.B. 3455 amends the Insurance Code to revise and codify provisions relating to a prohibition against certain contractual provisions relating to health benefit coverage for pharmaceutical services. The bill prohibits a health benefit plan from prohibiting or limiting an enrollee from selecting a pharmacy or pharmacist of the enrollee's choice to be a provider to furnish pharmaceutical care covered by the plan. The bill prohibits a health benefit plan from denying a pharmacy or pharmacist the right to participate as a provider under the plan if the pharmacy or pharmacist agrees to provide pharmaceutical care consistent with the terms of the plan and to accept the administrative, financial, and professional conditions that apply uniformly to pharmacies and pharmacists designated as providers under the plan. The bill prohibits a health benefit plan from requiring an enrollee to obtain or request a specific quantity or dosage supply of pharmaceutical products but authorizes a health benefit plan to allow a physician of an enrollee to prescribe drugs in a quantity or dosage supply the physician determines appropriate and that is in compliance with state and federal statutes.

H.B. 3455 establishes that such prohibitions do not prohibit a health benefit plan from implementing or administering a pharmacy benefit card program that authorizes an enrollee to obtain drugs or pharmaceutical care through designated providers; establishing uniform and reasonable application and renewal fees for pharmacies or pharmacists that provide pharmaceutical care as a provider under the plan; or limiting the quantity or dosage supply of drugs covered under the plan or providing financial incentives to prescribing physicians or enrollees to encourage use of certain drugs or pharmaceutical care in certain quantities in an effort to achieve cost savings to the plan and the enrollee, provided that the limitations or incentives are applied uniformly to all designated providers of pharmaceutical care under the plan.

H.B. 3455 establishes that its provisions do not require a health benefit plan to provide coverage for drugs or pharmaceutical care. The bill requires the commissioner of insurance to monitor health benefit plans to ensure compliance with the bill's provisions and authorizes the commissioner to adopt rules as necessary to implement the bill's provisions. The bill's provisions apply to specified health benefit plans that are delivered, issued for delivery, or renewed on or after January 1, 2014.

H.B. 3455 repeals Article 21.52B, Insurance Code.

EFFECTIVE DATE

September 1, 2013.