By: Eiland H.B. No. 3455

A BILL TO BE ENTITLED

AN ACT

relating to access to pharmaceutical care under certain health benefit plans.

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

SECTION 1. Chapter 1451, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ACCESS TO PHARMACEUTICAL CARE

Sec. 1451.451. DEFINITIONS. In this subchapter:

(1) "Drug" has the meaning assigned by Section 551.003, Occupations Code.

(2) "Enrollee" means an individual who is covered under a health benefit plan, including a covered dependent.

(3) "Pharmaceutical care" has the meaning assigned by Section 551.003, Occupations Code.

(4) "Pharmacist" has the meaning assigned by Section 551.003, Occupations Code.

(5) "Pharmacy" has the meaning assigned by Section 551.003, Occupations Code.

Sec. 1451.452. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan that provides benefits for drugs or pharmaceutical care 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

1 individual or group evidence of coverage or similar coverage
2 document that is offered by:
3 (1) an insurance company;
4 (2) a group hospital service corporation operating
5 under Chapter 842;
6 (3) a fraternal benefit society operating under
7 Chapter 885;
8 (4) a stipulated premium company operating under
9 Chapter 884;
10 (5) an exchange operating under Chapter 942;
11 (6) a health maintenance organization operating under
12 Chapter 843;
13 (7) a multiple employer welfare arrangement that holds
14 a certificate of authority under Chapter 846; or
15 (8) an approved nonprofit health corporation that
16 holds a certificate of authority under Chapter 844.
17 (b) This subchapter does not apply to:
18 (1) a plan that provides coverage:
19 (A) for wages or payments in lieu of wages for a
20 period during which an employee is absent from work because of
21 sickness or injury;
22 (B) as a supplement to a liability insurance
23 policy;
24 (C) for credit insurance;
25 (D) only for dental or vision care;
26 (E) only for hospital expenses; or
27 (F) only for indemnity for hospital confinement;

1 (2) a Medicare supplemental policy as defined by
2 Section 1882(g)(1), Social Security Act (42 U.S.C. Section
3 1395ss(g)(1));
4 (3) a workers' compensation insurance policy;
5 (4) medical payment insurance coverage provided under
6 a motor vehicle insurance policy; or
7 (5) a long-term care policy, including a nursing home
8 fixed indemnity policy, unless the commissioner determines that the
9 policy provides benefit coverage so comprehensive that the policy
10 is a health benefit plan as described by Subsection (a).
11 Sec. 1451.453. PROHIBITED CONTRACTUAL PROVISIONS. (a) A
12 health benefit plan may not:
13 (1) prohibit or limit an enrollee from selecting a
14 pharmacy or pharmacist of the enrollee's choice to be a provider to
15 furnish pharmaceutical care covered by the plan;
16 (2) deny a pharmacy or pharmacist the right to
17 participate as a provider under the plan if the pharmacy or
18 pharmacist agrees to provide pharmaceutical care consistent with
19 the terms of the plan and to accept the administrative, financial,
20 and professional conditions that apply uniformly to pharmacies and
21 pharmacists designated as providers under the plan; or
22 (3) require an enrollee to obtain or request a
23 specific quantity or dosage supply of pharmaceutical products.
24 (b) Notwithstanding Subsection (a)(3), a health benefit
25 plan may allow a physician of an enrollee to prescribe drugs in a
26 quantity or dosage supply the physician determines appropriate and
27 that is in compliance with state and federal statutes.

1 (c) This section does not prohibit a health benefit plan
2 from:
3 (1) in an effort to achieve cost savings to the plan
4 and the enrollee, provided that the limitations or incentives are
5 applied uniformly to all designated providers of pharmaceutical
6 care under the plan:
7 (A) limiting the quantity or dosage supply of
8 drugs covered under the plan; or
9 (B) providing financial incentives to
10 prescribing physicians or enrollees to encourage use of certain
11 drugs or pharmaceutical care in certain quantities;
12 (2) implementing or administering a pharmacy benefit
13 card program that authorizes an enrollee to obtain drugs or
14 pharmaceutical care through designated providers; or
15 (3) establishing uniform and reasonable application
16 and renewal fees for pharmacies or pharmacists that provide
17 pharmaceutical care as a provider under the plan.
18 Sec. 1451.454. COVERAGE NOT REQUIRED. This subchapter does
19 not require a health benefit plan to provide coverage for drugs or
20 pharmaceutical care.
21 Sec. 1451.455. DEPARTMENT MONITORING. The commissioner
22 shall monitor health benefit plans to ensure compliance with this
23 subchapter.
24 Sec. 1451.456. RULEMAKING. The commissioner may adopt
25 rules as necessary to implement this subchapter.
26 SECTION 2. Article 21.52B, Insurance Code, is repealed.
27 SECTION 3. This Act applies only to a health benefit plan

1 that is delivered, issued for delivery, or renewed on or after
2 January 1, 2014. A health benefit plan delivered, issued for
3 delivery, or renewed before January 1, 2014, is governed by the law
4 as it existed immediately before the effective date of this Act, and
5 that law is continued in effect for that purpose.
6 SECTION 4. This Act takes effect September 1, 2013.