

BILL ANALYSIS

C.S.H.B. 2505
By: Clardy
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Law enforcement has long expressed concern regarding prescription drug abuse and pill mills. Interested parties note that manufacturers have developed abuse-deterrent formulations in order to balance the need for pain medications, the need to preserve a physician's ability to prescribe what the patient needs, and the manufacturer's responsibility to make pain medication safe. The parties contend that medications that contain abuse-deterrent formulations have proven to reduce drug abuse rates and frequency of drug abuse, the street price of abused medications, drug diversion, and unintentional poisoning. There are concerns regarding the lack of legislation addressing access to such formulations. C.S.H.B. 2505 seeks to remedy this situation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2505 amends the Insurance Code to require a health benefit plan to provide coverage for abuse-deterrent opioid analgesic drugs. The bill prohibits a health benefit plan issuer from reducing or limiting a payment to a health care professional, or penalizing the professional, because the professional prescribes or dispenses an abuse-deterrent opioid analgesic drug. The bill prohibits these provisions from being construed to authorize a health care professional to dispense a drug.

C.S.H.B. 2505 authorizes a health benefit plan to require prior authorization for an abuse-deterrent opioid analgesic drug if the health benefit plan requires prior authorization for versions of the opioid analgesic drug that do not have abuse-deterrent properties. The bill prohibits a health benefit plan from requiring an enrollee to use an opioid analgesic drug that does not have abuse-deterrent properties before prior authorization for an abuse-deterrent opioid analgesic drug may be given.

C.S.H.B. 2505 applies to specified health benefit plans offered by specified insurers, employers, and organizations. The bill exempts specified health benefit plans, policies, coverages, and programs from its provisions. The bill establishes that a qualified health plan as defined by federal regulations, to the extent that providing coverage for abuse-deterrent opioid analgesic drugs would otherwise require the state to make a payment under the federal Patient Protection and Affordable Care Act, is not required to provide a benefit for the drugs that exceeds the specified essential health benefits required under that act. The bill applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2505 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

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

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SUBCHAPTER H. COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS

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Sec. 1369.351. DEFINITIONS.

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Sec. 1369.352. APPLICABILITY OF SUBCHAPTER.

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Sec. 1369.353. EXCEPTIONS. (a) This subchapter does not apply to:

Sec. 1369.353. EXCEPTIONS; APPLICATION TO QUALIFIED HEALTH PLAN. (a) This subchapter does not apply to:

- (1) a health benefit plan that provides coverage only:
 - (A) for a specified disease or for another limited benefit other than for cancer;
 - (B) 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) for credit insurance;
 - (F) for dental or vision care; or
 - (G) 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), as amended;
- (3) a workers' compensation insurance policy;
- (4) medical payment insurance coverage provided under a motor vehicle insurance policy; or
- (5) a long-term care insurance policy, including a nursing home fixed indemnity

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- (2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended;
- (3) a workers' compensation insurance policy;
- (4) medical payment insurance coverage provided under a motor vehicle insurance policy; or
- (5) 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 1369.102.

(b) This subchapter does not apply to:

(1) a Medicaid managed care program operated under Chapter 533, Government Code;

(2) a Medicaid program operated under Chapter 32, Human Resources Code; or

(3) the state child health plan operated under Chapter 62 or 63, Health and Safety Code.

Sec. 1369.354. REQUIRED COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS. (a) A health benefit plan must provide coverage for abuse-deterrent opioid analgesic drugs.

(b) A health benefit plan issuer may not reduce or limit a payment to a health care professional, or otherwise penalize the professional, because the professional prescribes or dispenses an abuse-deterrent opioid analgesic drug.

Sec. 1369.355. PRIOR AUTHORIZATION. (a) A health benefit plan may require prior authorization for an abuse-deterrent opioid analgesic drug in the same manner that the health benefit plan requires prior authorization for an opioid analgesic drug that does not have abuse-deterrent properties.

(b) A health benefit plan may not require an enrollee to use an opioid analgesic drug that does not have abuse-deterrent properties before prior authorization for an abuse-deterrent opioid analgesic drug may be given.

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 1369.102.

(b) This subchapter does not apply to:

(1) a Medicaid managed care program operated under Chapter 533, Government Code;

(2) a Medicaid program operated under Chapter 32, Human Resources Code; or

(3) the state child health plan operated under Chapter 62 or 63, Health and Safety Code.

(c) To the extent that providing coverage for abuse-deterrent opioid analgesic drugs under this section would otherwise require this state to make a payment under 42 U.S.C. Section 18031(d)(3)(B)(ii), a qualified health plan, as defined by 45 C.F.R. Section 155.20, is not required to provide a benefit for the drugs under this section that exceeds the specified essential health benefits required under 42 U.S.C. Section 18022(b).

Sec. 1369.354. REQUIRED COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS. (a) A health benefit plan must provide coverage for abuse-deterrent opioid analgesic drugs.

(b) A health benefit plan issuer may not reduce or limit a payment to a health care professional, or otherwise penalize the professional, because the professional prescribes or dispenses an abuse-deterrent opioid analgesic drug.

(c) Nothing in this section may be construed to authorize a health care professional to dispense a drug.

Sec. 1369.355. PRIOR AUTHORIZATION. (a) A health benefit plan may require prior authorization for an abuse-deterrent opioid analgesic drug if the health benefit plan requires prior authorization for versions of the opioid analgesic drug that do not have abuse-deterrent properties.

(b) A health benefit plan may not require an enrollee to use an opioid analgesic drug that does not have abuse-deterrent properties before prior authorization for an abuse-deterrent opioid analgesic drug may be given.

SECTION 2. Subchapter H, 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, 2016. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2016, 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, 2015.

SECTION 2. Same as introduced version.

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