

## **BILL ANALYSIS**

Senate Research Center

H.B. 3028  
By: Frullo (Watson)  
Business & Commerce  
5/18/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Discount health care programs can be a useful tool for consumers to lower the cost of pharmaceutical drugs. However, concerns have been raised regarding whether these discounts are being offered without the consent or knowledge of the pharmacy dispensing the drugs. It has also been suggested that a pharmacy may be required to participate in certain discount health care programs as a condition of accessing certain provider networks. H.B. 3028 seeks to address these issues.

H.B. 3028 amends current law relating to regulation of certain conduct by discount health care program operators, or concerning discount health care programs, that relates to prescription drugs or prescription drug benefits and authorizes administrative and civil 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 Subchapter B, Chapter 562, Insurance Code, by adding Sections 562.055 and 562.056, as follows:

Sec. 562.055. NETWORK PARTICIPATION REQUIREMENTS. (a) Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a discount health care program operator or an affiliate or agent of a discount health care program operator to require a pharmacy or pharmacist to:

- (1) participate in a specified provider network as a condition of processing a claim for prescription drugs under the discount health care program; or
- (2) participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

(b) Provides that a discount health care program operator is not legally liable for any act or omission of an agent of the operator in violation of Subsection (a).

Sec. 562.056. CERTAIN METHODS OF PROMOTIONS. (a) Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a discount health care program operator to pay any consideration to a health care services provider or employee of a health care services provider:

- (1) to encourage an individual to claim a discount for prescription drugs under a discount health care program; or
- (2) to include discount health care program information on a prescription for a drug or in materials accompanying the prescription.

(b) Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a discount health care program operator to provide a person with written prescription forms that could reasonably mislead an individual to believe that the discount health care program is health insurance or provides coverage similar to health insurance.

SECTION 2. Amends Subchapter D, Chapter 4151, Insurance Code, by adding Section 4151.154, as follows:

Sec. 4151.154. DISCOUNT HEALTH CARE PROGRAMS. Prohibits a pharmacy benefit manager from requiring a pharmacist or pharmacy to:

(1) accept or process a claim for prescription drugs under a discount health care program as defined by Section 7001.001 (Definitions) unless the pharmacist or pharmacy agrees in writing to accept or process the claim;

(2) participate in a specified provider network as a condition of processing a claim for prescription drugs under a discount health care program; or

(3) participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

SECTION 3. (a) Provides that, except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act. Makes application of this Act prospective.

(b) Provides that the changes in law made by this Act apply only to a claim filed under a discount health care program on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.