

By: Clardy, Rodriguez of Travis, Keough

H.B. No. 2505

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for abuse-deterrent opioid analgesic drugs.

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

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

SUBCHAPTER H. COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS

Sec. 1369.351. DEFINITIONS. In this subchapter:

(1) "Abuse-deterrent opioid analgesic drug" means an opioid analgesic drug that the United States Food and Drug Administration has approved and for which the United States Food and Drug Administration has approved abuse-deterrence labeling that indicates the drug is expected to result in a meaningful reduction in abuse.

(2) "Opioid analgesic drug" means a drug in the opioid analgesic drug class that:

(A) is prescribed to treat moderate to severe pain or other conditions; and

(B) may be:

(i) in an immediate-release or extended-release form of the drug;

(ii) a single component drug; or

(iii) in combination with another drug.

Sec. 1369.352. APPLICABILITY OF SUBCHAPTER. (a) This

1 subchapter applies only to a health benefit plan, including a small  
2 employer health benefit plan written under Chapter 1501, that  
3 provides benefits for medical or surgical expenses incurred as a  
4 result of a health condition, accident, or sickness, including an  
5 individual, group, blanket, or franchise insurance policy or  
6 insurance agreement, a group hospital service contract, or an  
7 individual or group evidence of coverage or similar coverage  
8 document that is offered by:

9 (1) an insurance company;

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

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

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

16 (5) a reciprocal exchange operating under Chapter 942;

17 (6) a health maintenance organization operating under  
18 Chapter 843;

19 (7) a multiple employer welfare arrangement that holds  
20 a certificate of authority under Chapter 846; or

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

23 (b) Notwithstanding Section 1501.251 or any other law, this  
24 subchapter applies to a small employer health benefit plan subject  
25 to Chapter 1501.

26 (c) Notwithstanding Sections 1507.004 and 1507.053, or any  
27 other law, this subchapter applies to a consumer choice of benefits

1 plan issued under Chapter 1507.

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

4 (1) a health benefit plan that provides coverage only:

5 (A) for a specified disease or for another  
6 limited benefit other than for cancer;

7 (B) for accidental death or dismemberment;

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

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

13 (E) for credit insurance;

14 (F) for dental or vision care; or

15 (G) for indemnity for hospital confinement;

16 (2) a Medicare supplemental policy as defined by  
17 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss),  
18 as amended;

19 (3) a workers' compensation insurance policy;

20 (4) medical payment insurance coverage provided under  
21 a motor vehicle insurance policy; or

22 (5) a long-term care insurance policy, including a  
23 nursing home fixed indemnity policy, unless the commissioner  
24 determines that the policy provides benefit coverage so  
25 comprehensive that the policy is a health benefit plan as described  
26 by Section 1369.102.

27 (b) This subchapter does not apply to:

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

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

5           (3) the state child health plan operated under Chapter  
6 62 or 63, Health and Safety Code.

7           (c) To the extent that providing coverage for  
8 abuse-deterrent opioid analgesic drugs under this section would  
9 otherwise require this state to make a payment under 42 U.S.C.  
10 Section 18031(d)(3)(B)(ii), a qualified health plan, as defined by  
11 45 C.F.R. Section 155.20, is not required to provide a benefit for  
12 the drugs under this section that exceeds the specified essential  
13 health benefits required under 42 U.S.C. Section 18022(b).

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

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

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

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

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

5        SECTION 2. Subchapter H, Chapter 1369, Insurance Code, as  
6 added by this Act, applies only to a health benefit plan that is  
7 delivered, issued for delivery, or renewed on or after January 1,  
8 2016. A health benefit plan that is delivered, issued for delivery,  
9 or renewed before January 1, 2016, is covered by the law in effect  
10 at the time the plan was delivered, issued for delivery, or renewed,  
11 and that law is continued in effect for that purpose.

12        SECTION 3. This Act takes effect September 1, 2015.