

By: Frullo

H.B. No. 3028

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to regulation of certain conduct by discount health care  
3 program operators, or concerning discount health care programs,  
4 that relates to prescription drugs or prescription drug benefits;  
5 authorizing administrative and civil penalties.

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

7 SECTION 1. Subchapter B, Chapter 562, Insurance Code, is  
8 amended by adding Sections 562.055 and 562.056 to read as follows:

9 Sec. 562.055. NETWORK PARTICIPATION REQUIREMENTS. (a) It  
10 is an unfair method of competition or an unfair or deceptive act or  
11 practice in the business of discount health care programs for a  
12 discount health care program operator or an affiliate or agent of a  
13 discount health care program operator to require a pharmacy or  
14 pharmacist to:

15 (1) participate in a specified provider network as a  
16 condition of processing a claim for prescription drugs under the  
17 discount health care program; or

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

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

24 Sec. 562.056. CERTAIN METHODS OF PROMOTIONS. (a) It is an

1 unfair method of competition or an unfair or deceptive act or  
2 practice in the business of discount health care programs for a  
3 discount health care program operator to pay any consideration to a  
4 health care services provider or employee of a health care services  
5 provider:

6 (1) to encourage an individual to claim a discount for  
7 prescription drugs under a discount health care program; or

8 (2) to include discount health care program  
9 information on a prescription for a drug or in materials  
10 accompanying the prescription.

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

18 SECTION 2. Subchapter D, Chapter 4151, Insurance Code, is  
19 amended by adding Section 4151.154 to read as follows:

20 Sec. 4151.154. DISCOUNT HEALTH CARE PROGRAMS. A pharmacy  
21 benefit manager may not require a pharmacist or pharmacy to:

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

26 (2) participate in a specified provider network as a  
27 condition of processing a claim for prescription drugs under a

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

5 SECTION 3. (a) Except as provided by Subsection (b) of this  
6 section, the changes in law made by this Act apply only to conduct  
7 that occurs on or after the effective date of this Act. Conduct that  
8 occurs before the effective date of this Act is governed by the law  
9 as it existed when the conduct occurred, and the former law is  
10 continued in effect for that purpose.

11 (b) The changes in law made by this Act apply only to a claim  
12 filed under a discount health care program on or after the effective  
13 date of this Act. A claim filed before the effective date of this  
14 Act is governed by the law as it existed immediately before the  
15 effective date of this Act, and that law is continued in effect for  
16 that purpose.

17 SECTION 4. This Act takes effect September 1, 2015.