

By: Eltife

S.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating to the authority and rights of pharmacy services administrative organizations to conduct the business of independent pharmacies with respect to certain pharmacy benefits.

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

SECTION 1. Subchapter I, Chapter 843, Insurance Code, is amended by adding Section 843.324 to read as follows:

Sec. 843.324. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS. (a) In this section:

(1) "Independent pharmacy" means a pharmacy that is under common ownership with not more than two other pharmacies.

(2) "Pharmacy benefit manager" means a person, other than a pharmacist, pharmacy, or pharmacy services administrative organization, who acts as an administrator in connection with pharmacy benefits.

(3) "Pharmacy services administrative organization" means an entity that contracts with an independent pharmacy to conduct on behalf of the pharmacy the pharmacy's business with a third-party payor, including a pharmacy benefit manager, in connection with pharmacy benefits and to assist the pharmacy by providing administrative services, including negotiating, executing, and administering a contract with a third-party payor and communicating with the third-party payor in connection with a contract or pharmacy benefits.

1 (b) This section applies to a Medicaid managed care program
2 and a managed care organization that contracts with the Health and
3 Human Services Commission to provide services under Chapter 533,
4 Government Code.

5 (c) This section does not apply with respect to pharmacy
6 benefits under a self-insured, self-funded, or other employee
7 welfare benefit plan that is exempt from state regulation under the
8 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
9 1001 et seq.).

10 (d) Subject to Subsection (e), a pharmacy services
11 administrative organization designated and authorized by an
12 independent pharmacy as the pharmacy's agent and vested with actual
13 authority may conduct the pharmacy's business with a pharmacy
14 benefit manager in connection with pharmacy benefits provided under
15 a health maintenance organization plan and administered by a
16 pharmacy benefit manager.

17 (e) Before a pharmacy services administrative organization
18 may act on behalf of the independent pharmacy as described by
19 Subsection (d), the pharmacy must provide written notice to the
20 pharmacy benefit manager that the organization has the authority to
21 conduct the pharmacy's business with the pharmacy benefit manager
22 to the extent provided in the notice. The notice must detail the
23 specific nature and scope of the authority granted to the
24 organization with respect to the pharmacy's business with the
25 pharmacy benefit manager.

26 (f) A pharmacy benefit manager that receives a notice under
27 Subsection (e) shall recognize the authority of the pharmacy

1 services administrative organization to conduct the pharmacy's
2 business with the pharmacy benefit manager to the extent provided
3 in the notice. A pharmacy benefit manager may not refuse to deal
4 with the organization to the extent of the authority detailed in the
5 notice, including by refusing to:

6 (1) enter into a contract with the organization acting
7 on behalf of the independent pharmacy on terms agreed to by the
8 pharmacy benefit manager and organization; or

9 (2) communicate with the organization about any matter
10 relevant to the pharmacy or pharmacy benefits, including contract
11 provisions, maximum allowable cost lists, and reimbursement price
12 appeals.

13 (g) A pharmacy benefit manager may not require an
14 independent pharmacy acting through a pharmacy services
15 administrative organization under this section to participate as a
16 network provider or preferred provider under a particular health
17 benefit plan as a condition of participating as a network provider
18 or preferred provider under another health benefit plan.

19 (h) A pharmacy services administrative organization has the
20 same rights and obligations under this chapter as the independent
21 pharmacy on behalf of which the organization acts with respect to
22 pharmacy benefits provided under a health maintenance organization
23 plan and administered by a pharmacy benefit manager, to the extent
24 of the organization's authority to act with respect to those
25 benefits.

26 SECTION 2. Subchapter B, Chapter 1301, Insurance Code, is
27 amended by adding Section 1301.070 to read as follows:

1 Sec. 1301.070. PHARMACY SERVICES ADMINISTRATIVE
2 ORGANIZATIONS. (a) In this section:

3 (1) "Independent pharmacy" means a pharmacy that is
4 under common ownership with not more than two other pharmacies.

5 (2) "Pharmacy benefit manager" means a person, other
6 than a pharmacist, pharmacy, or pharmacy services administrative
7 organization, who acts as an administrator in connection with
8 pharmacy benefits.

9 (3) "Pharmacy services administrative organization"
10 means an entity that contracts with an independent pharmacy to
11 conduct on behalf of the pharmacy the pharmacy's business with a
12 third-party payor, including a pharmacy benefit manager, in
13 connection with pharmacy benefits and to assist the pharmacy by
14 providing administrative services, including negotiating,
15 executing, and administering a contract with a third-party payor
16 and communicating with the third-party payor in connection with a
17 contract or pharmacy benefits.

18 (b) Notwithstanding Section [1301.0041](#), this section applies
19 to a Medicaid managed care program and a managed care organization
20 that contracts with the Health and Human Services Commission to
21 provide services under Chapter 533, Government Code.

22 (c) This section does not apply with respect to pharmacy
23 benefits under a self-insured, self-funded, or other employee
24 welfare benefit plan that is exempt from state regulation under the
25 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
26 1001 et seq.).

27 (d) Subject to Subsection (e), a pharmacy services

administrative organization designated and authorized by an independent pharmacy as the pharmacy's agent and vested with actual authority may conduct the pharmacy's business with a pharmacy benefit manager in connection with pharmacy benefits provided under a preferred provider benefit plan and administered by a pharmacy benefit manager.

(e) Before a pharmacy services administrative organization may act on behalf of the independent pharmacy as described by Subsection (d), the pharmacy must provide written notice to the pharmacy benefit manager that the organization has the authority to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. The notice must detail the specific nature and scope of the authority granted to the organization with respect to the pharmacy's business with the pharmacy benefit manager.

(f) A pharmacy benefit manager that receives a notice under Subsection (e) shall recognize the authority of the pharmacy services administrative organization to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. A pharmacy benefit manager may not refuse to deal with the organization to the extent of the authority detailed in the notice, including by refusing to:

(1) enter into a contract with the organization acting on behalf of the independent pharmacy on terms agreed to by the pharmacy benefit manager and organization; or

(2) communicate with the organization about any matter relevant to the pharmacy or pharmacy benefits, including contract

1 provisions, maximum allowable cost lists, and reimbursement price
2 appeals.

3 (g) A pharmacy benefit manager may not require an
4 independent pharmacy acting through a pharmacy services
5 administrative organization under this section to participate as a
6 network provider or preferred provider under a particular health
7 benefit plan as a condition of participating as a network provider
8 or preferred provider under another health benefit plan.

9 (h) A pharmacy services administrative organization has the
10 same rights and obligations under this chapter as the independent
11 pharmacy on behalf of which the organization acts with respect to
12 pharmacy benefits provided under a preferred provider benefit plan
13 and administered by a pharmacy benefit manager, to the extent of the
14 organization's authority to act with respect to those benefits.

15 SECTION 3. This Act applies only to benefits provided under
16 a health benefit plan that is delivered, issued for delivery, or
17 renewed on or after the effective date of this Act. Benefits
18 provided under a health benefit plan delivered, issued for
19 delivery, or renewed before the effective date of this Act are
20 governed by the law as it existed immediately before the effective
21 date of this Act, and that law is continued in effect for that
22 purpose.

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