

By: Kolkhorst

S.B. No. 1564

A BILL TO BE ENTITLED

AN ACT

relating to pharmacy benefit networks and pharmacy benefit managers.

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

SECTION 1. Section 1458.001, Insurance Code, is amended by amending Subdivisions (2), (7), and (8) and adding Subdivision (3-a) to read as follows:

(2) "Contracting entity" means a person who:

(A) enters into a direct contract with a provider for the delivery of health care services or drugs to covered individuals; and

(B) in the ordinary course of business establishes a provider network or networks for access by another party.

(3-a) "Drug" has the meaning assigned by Section 551.003, Occupations Code.

(7)(A) "Provider" means:

- (i) an advanced practice nurse;
- (ii) an optometrist;
- (iii) a therapeutic optometrist;
- (iv) a physician;
- (v) a physician assistant;
- (vi) a professional association composed solely of physicians, optometrists, or therapeutic optometrists;

1 (vii) a single legal entity authorized to
2 practice medicine owned by two or more physicians;

3 (viii) a nonprofit health corporation
4 certified by the Texas Medical Board under Chapter 162, Occupations
5 Code;

6 (ix) a partnership composed solely of
7 physicians, optometrists, or therapeutic optometrists;

8 (x) a physician-hospital organization that
9 acts exclusively as an administrator for a provider to facilitate
10 the provider's participation in health care contracts; ~~or~~

11 (xi) an institution that is licensed under
12 Chapter 241, Health and Safety Code; or

13 (xii) a pharmacist or pharmacy.

14 (B) "Provider" does not include a
15 physician-hospital organization that leases or rents the
16 physician-hospital organization's network to another party.

17 (8) "Provider network contract" means a contract
18 between a contracting entity and a provider for the delivery of, and
19 payment for, health care services or drugs to a covered individual.

20 SECTION 2. Section 1458.002(a), Insurance Code, is amended
21 to read as follows:

22 (a) In this chapter, "health benefit plan" means:

23 (1) a hospital and medical expense incurred policy;

24 (2) a nonprofit health care service plan contract;

25 (3) a health maintenance organization subscriber
26 contract; or

27 (4) any other health care plan or arrangement that

1 pays for or furnishes medical or health care services or drugs.

2 SECTION 3. Sections 1458.101(c), (d), and (e), Insurance
3 Code, are amended to read as follows:

4 (c) A contracting entity may not provide a person access to
5 health care services, drugs, or contractual discounts under a
6 provider network contract unless the provider network contract
7 specifically states that the contracting entity may contract with a
8 person to provide access to the contracting entity's rights and
9 responsibilities under the provider network contract.

10 (d) The provider network contract must require that on the
11 request of the provider, the contracting entity will provide
12 information necessary to determine whether a particular person has
13 been authorized to access the provider's health care services,
14 drugs, and contractual discounts.

15 (e) To be enforceable against a provider, a provider network
16 contract, including the lines of business described by Subsections
17 (a) and (f), must also specify or reference a separate fee schedule
18 for each such line of business. The separate fee schedule may
19 describe specific services or procedures or drugs that the provider
20 will deliver along with a corresponding payment, may describe a
21 methodology for calculating payment based on a published fee
22 schedule, or may describe payment in any other reasonable manner
23 that specifies a definite payment for services or drugs. The fee
24 information may be provided by any reasonable method, including
25 electronically.

26 SECTION 4. Section 1458.102(a), Insurance Code, is amended
27 to read as follows:

1 (a) A contracting entity may not provide a person access to
2 health care services, drugs, or contractual discounts under a
3 provider network contract unless the provider network contract
4 specifically states that the person must comply with all applicable
5 terms, limitations, and conditions of the provider network
6 contract.

7 SECTION 5. Section 4151.001, Insurance Code, is amended by
8 adding Subdivisions (3-a) and (5-a) to read as follows:

9 (3-a) "Pharmacy benefit management" means the
10 administration or management of prescription drug benefits,
11 including:

- 12 (A) retail pharmacy network management;
- 13 (B) pharmacy discount card management;
- 14 (C) claims payment to a retail pharmacy for
15 prescription medications dispensed to plan participants;
- 16 (D) clinical formulary development and
17 management services, including utilization management and quality
18 assurance programs;
- 19 (E) rebate contracting and administration;
- 20 (F) auditing contracted pharmacies;
- 21 (G) establishing pharmacy reimbursement pricing
22 and methodologies; and
- 23 (H) determining single and multiple source
24 medications.

25 (5-a) "Retail pharmacy" means a pharmacy licensed
26 under Chapter 560, Occupations Code, that dispenses medications to
27 the public, including an independent pharmacy, a chain pharmacy, a

1 supermarket pharmacy, or a mass merchandiser pharmacy. The term
2 does not include a pharmacy that dispenses prescription medications
3 primarily through the mail, a nursing home pharmacy, a long-term
4 care facility pharmacy, a hospital pharmacy, a clinic pharmacy, a
5 charitable or nonprofit pharmacy, a government pharmacy, or a
6 pharmacy benefit manager that is serving in its capacity as a
7 pharmacy benefit manager.

8 SECTION 6. Section [4151.151](#), Insurance Code, is amended to
9 read as follows:

10 Sec. 4151.151. DEFINITION. In this subchapter, "pharmacy
11 benefit manager" means a person, other than a pharmacy or
12 pharmacist, who acts as an administrator that provides pharmacy
13 benefit management in connection with pharmacy benefits.

14 SECTION 7. Chapter [1458](#), Insurance Code, as amended by this
15 Act, applies only to a provider network contract entered into or
16 renewed on or after January 1, 2018. A provider network contract
17 entered into or renewed before January 1, 2018, is governed by the
18 law as it existed immediately before the effective date of this Act,
19 and that law is continued in effect for that purpose.

20 SECTION 8. This Act takes effect September 1, 2017.