

By: Miles

S.B. No. 2020

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain health risk information; authorizing administrative penalties and other sanctions.

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

SECTION 1. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 564 to read as follows:

CHAPTER 564. USE OF HEALTH RISK INFORMATION

Sec. 564.0001. DEFINITIONS. In this chapter:

(1) "Adverse action" means an action taken by a health benefit plan issuer with respect to an individual in connection with the administration of or underwriting for a health benefit plan that results in:

(A) the denial of coverage for a particular benefit, treatment, service, supply, or drug;

(B) the declination, cancellation, or nonrenewal of health benefit plan coverage; or

(C) the restriction of coverage under a health benefit plan, including the application of particular deductible, coinsurance, or copayment requirements.

(2) "Enrollee" means an individual who is enrolled in a health benefit plan.

(3) "Health benefit plan" means a plan to which this chapter applies under Section 564.0002.

(4) "Health risk information" means any

1 health-related information contained in a health risk report.

2 (5) "Health risk report" means the communication of
3 information assembled or evaluated by a health risk reporting
4 agency that relates to an individual's health, including the
5 individual's:

6 (A) use of benefits under a health benefit plan;
7 or

8 (B) having received a specific diagnosis or
9 having been the recipient of a particular health care treatment,
10 service, or supply, or of a prescription for a particular drug.

11 (6) "Health risk reporting agency" means any person
12 that regularly engages in the practice of assembling or evaluating
13 health risk information for the purpose of providing health risk
14 reports to third parties, without regard to whether the person
15 receives compensation for providing the reports. The term does not
16 include:

17 (A) a health benefit plan issuer assembling
18 information obtained as a result of providing benefits to a plan
19 enrollee for the health benefit plan issuer's use in the
20 administration of the health benefit plan; or

21 (B) a physician, health care practitioner, or
22 health care provider assembling information for the physician's,
23 practitioner's, or provider's use, or for the use of a group
24 practice to which the physician, practitioner, or provider belongs,
25 in providing services to patients.

26 (7) "Health risk score" means a number or rating
27 assigned to an individual and derived from an algorithm, computer

application, model, or other process based on the individual's health risk information.

Sec. 564.0002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

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

(3) a health maintenance organization operating under Chapter 843;

(4) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

(5) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(6) a stipulated premium company operating under Chapter 884;

(7) a fraternal benefit society operating under Chapter 885;

(8) a Lloyd's plan operating under Chapter 941; or

(9) an exchange operating under Chapter 942.

(b) Notwithstanding any other law, this chapter applies to:

(1) a small employer health benefit plan subject to Chapter 1501, including coverage provided through a health group

cooperative under Subchapter B of that chapter;

(2) a standard health benefit plan issued under Chapter 1507;

(3) a basic coverage plan under Chapter 1551;

(4) a basic plan under Chapter 1575;

(5) a primary care coverage plan under Chapter 1579;

(6) a plan providing basic coverage under Chapter 1601;

(7) health benefits provided by or through a church benefits board under Subchapter I, Chapter 22, Business Organizations Code;

(8) group health coverage made available by a school district in accordance with Section 22.004, Education Code;

(9) the state Medicaid program, including the Medicaid managed care program operated under Chapter 533, Government Code;

(10) the child health plan program under Chapter 62, Health and Safety Code;

(11) a regional or local health care program operated under Section 75.104, Health and Safety Code;

(12) a self-funded health benefit plan sponsored by a professional employer organization under Chapter 91, Labor Code;

(13) county employee group health benefits provided under Chapter 157, Local Government Code; and

(14) health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(c) This chapter applies to coverage under a group health benefit plan provided to a resident of this state regardless of

1 whether the group policy, agreement, or contract is delivered,
2 issued for delivery, or renewed in this state.

3 Sec. 564.0003. RULES. The commissioner may adopt rules
4 necessary to implement this chapter.

5 Sec. 564.0004. PROHIBITED USE OF HEALTH RISK INFORMATION.

6 (a) A health benefit plan issuer may not take an adverse action
7 with respect to an enrollee or prospective enrollee that is based on
8 the individual's health risk score or any health risk information
9 derived from a health risk report.

10 (b) A health benefit plan issuer may not share an
11 individual's health risk score, health risk report, or any health
12 risk information derived from a health risk report with any other
13 person or entity, including a network provider or preferred
14 provider.

15 Sec. 564.0005. DISCLOSURE TO ENROLLEE. On request of an
16 enrollee, a health benefit plan issuer shall provide to the
17 enrollee, at no cost to the enrollee, any health risk score, health
18 risk report, or health risk information in the possession of the
19 health benefit plan issuer that relates to the enrollee.

20 Sec. 564.0006. VIOLATION. A health benefit plan issuer
21 that violates this chapter or a rule adopted under this chapter
22 commits an unfair practice in violation of Chapter 541 and is
23 subject to administrative penalties and other sanctions under
24 Chapter 82.

25 SECTION 2. Subtitle A, Title 3, Occupations Code, is
26 amended by adding Chapter 116 to read as follows:

27 CHAPTER 116. USE OF CERTAIN HEALTH RISK INFORMATION

1 Sec. 116.0001. DEFINITIONS. In this chapter:

2 (1) "Health care practitioner" means an individual
3 licensed, certified, or registered under this title.

4 (2) "Health risk information," "health risk report,"
5 and "health risk score" have the meanings assigned by Section
6 564.0001, Insurance Code.

7 Sec. 116.0002. PROHIBITED USE OF HEALTH RISK INFORMATION.

8 A health care practitioner may not make a diagnosis or treatment
9 decision, including a decision to prescribe a particular drug,
10 based on an individual's health risk score or any health risk
11 information derived from a health risk report.

12 Sec. 116.0003. DISCLOSURE REQUIRED. On request, a health

13 care practitioner shall provide to an individual to whom the
14 practitioner is providing services, at no cost to the individual,
15 any health risk score, health risk report, or health risk
16 information in the possession of the health care practitioner that
17 relates to the individual.

18 Sec. 116.0004. DISCIPLINARY ACTION. A violation of Section

19 116.0002 or 116.0003 is grounds for disciplinary action by the
20 regulatory agency that issued a license, certification, or
21 registration to the health care practitioner who committed the
22 violation.

23 SECTION 3. This Act takes effect September 1, 2019.