

BILL ANALYSIS

H.B. 2787
By: Middleton
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The federal Employee Retirement Income Security Act of 1974 (ERISA) sets standards for voluntarily established pension and health plans and preempts conflicting laws regarding employee benefit plans. Efforts to regulate pharmacy benefit managers (PBMs) are often challenged in court on the grounds that they violate ERISA. For this reason, state law providing for audits of pharmacies and pharmacists in order to limit abusive audit practices by PBMs and health plans currently does not apply to self-funded health plans. A recent U.S. Supreme Court ruling held that ERISA does not preempt an Arkansas PBM reform measure, setting the precedent that state laws regulating the relationship between PBMs and pharmacies are not preempted by ERISA. Accordingly, H.B. 2787 seeks to subject insurers, providers, and PBMs operating under these self-funded plans to existing audit requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2787 amends the Insurance Code to subject an issuer or provider of health benefits under or a pharmacy benefit manager administering pharmacy benefits under a self-funded health benefit plan as defined by the federal Employee Retirement Income Security Act of 1974 to provisions establishing procedures and other requirements for on-site and desk audits of pharmacists and pharmacies.

EFFECTIVE DATE

September 1, 2021.