

BILL ANALYSIS

Senate Research Center

S.B. 844
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Employee Retirement Income Security Act of 1974 (ERISA) sets minimum standards for most voluntarily established retirement and health plans in private industry with the intent to provide protection for beneficiaries. Historically, self-funded health plans and pharmacy benefit managers (PBMs) operating under the definitions in ERISA have been shielded from state regulation under this federal law. Recently, the Supreme Court ruled that states do have the authority to regulate PBMs in their *Rutledge v. PCMA* decision, holding that ERISA does not preempt state laws regulating their practices.

S.B. 844 removes the ERISA preemption from the subchapter relating to audits, allowing the statute to reach its full scope under the *Rutledge* decision.

As proposed, S.B. 844 amends current law relating to repeal of certain Employee Retirement Income Security Act of 1974 exemption provisions relating to pharmacy benefits.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1369.252, Insurance Code, as follows:

Sec. 1369.252. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER. Deletes existing text providing that Subchapter F (Audits of Pharmacists and Pharmacies) does not apply to 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 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.) Makes conforming changes.

SECTION 2. Effective date: September 1, 2021.