87R16541 JES-F

By:  Harris, et al. H.B. No. 1919

Substitute the following for H.B. No. 1919:

By:  Middleton C.S.H.B. No. 1919

A BILL TO BE ENTITLED

AN ACT

relating to certain prohibited practices for certain health benefit plan issuers and pharmacy benefit managers.

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

SECTION 1.  Chapter 1369, Insurance Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. AFFILIATED PROVIDERS

Sec. 1369.551.  DEFINITIONS. In this subchapter:

(1)  "Affiliated provider" means a pharmacy or durable medical equipment provider that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a health benefit plan issuer or pharmacy benefit manager.

(2)  "Health benefit plan" has the meaning assigned by Section 1369.251.

(3)  "Pharmacy benefit manager" has the meaning assigned by Section 4151.151.

Sec. 1369.552.  TRANSFER OR ACCEPTANCE OF CERTAIN RECORDS PROHIBITED. (a) In this section, "commercial purpose" does not include pharmacy reimbursement, formulary compliance, pharmaceutical care, utilization review by a health care provider, or a public health activity authorized by law.

(b)  A health benefit plan issuer or provider benefit manager may not transfer to or receive from the issuer's or manager's affiliated provider a record containing patient- or prescriber-identifiable prescription information for a commercial purpose.

Sec. 1369.553.  PROHIBITION ON CERTAIN COMMUNICATIONS. (a) A health benefit plan issuer or pharmacy benefit manager may not steer or direct a patient to use the issuer's or manager's affiliated provider through any oral or written communication, including:

(1)  online messaging regarding the provider; or

(2)  patient- or prospective patient-specific advertising, marketing, or promotion of the provider.

(b)  This section does not prohibit a health benefit plan issuer or pharmacy benefit manager from including the issuer's or manager's affiliated provider in a patient or prospective patient communication, if the communication:

(1)  is regarding information about the cost or service provided by pharmacies or durable medical equipment providers in the network of a health benefit plan in which the patient or prospective patient is enrolled; and

(2)  includes accurate comparable information regarding pharmacies or durable medical equipment providers in the network that are not the issuer's or manager's affiliated providers.

Sec. 1369.554.  PROHIBITION ON CERTAIN REFERRALS AND SOLICITATIONS. (a) A health benefit plan issuer or pharmacy benefit manager may not require a patient to use the issuer's or manager's affiliated provider in order for the patient to receive the maximum benefit for the service under the patient's health benefit plan.

(b)  A health benefit plan issuer or pharmacy benefit manager may not offer or implement a health benefit plan that requires or induces a patient to use the issuer's or manager's affiliated provider, including by providing for reduced cost-sharing if the patient uses the affiliated provider.

(c)  A health benefit plan issuer or pharmacy benefit manager may not solicit a patient or prescriber to transfer a patient prescription to the issuer's or manager's affiliated provider.

(d)  A health benefit plan issuer or pharmacy benefit manager may not require a pharmacy or durable medical equipment provider that is not the issuer's or manager's affiliated provider to transfer a patient's prescription to the issuer's or manager's affiliated provider without the prior written consent of the patient.

SECTION 2.  Sections 1369.554(a) and (b), Insurance Code, as added by this Act, apply only to a health benefit plan delivered, issued for delivery, or renewed on or after the effective date of this Act.

SECTION 3.  This Act takes effect September 1, 2021.