

AN ACT

relating to 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. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

Notwithstanding the definition of "health benefit plan" provided by Section 1369.551, this subchapter does not apply to an issuer or provider of health benefits under or a pharmacy benefit manager administering pharmacy benefits under:

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

- 1 (2) the child health plan program under Chapter 62,
2 Health and Safety Code;
- 3 (3) the TRICARE military health system;
- 4 (4) a basic coverage plan under Chapter 1551;
- 5 (5) a basic plan under Chapter 1575;
- 6 (6) a coverage plan under Chapter 1579;
- 7 (7) a plan providing basic coverage under Chapter
8 1601; or
- 9 (8) a workers' compensation insurance policy or other
10 form of providing medical benefits under Title 5, Labor Code.

11 Sec. 1369.553. TRANSFER OR ACCEPTANCE OF CERTAIN RECORDS
12 PROHIBITED. (a) In this section, "commercial purpose" does not
13 include pharmacy reimbursement, formulary compliance,
14 pharmaceutical care, utilization review by a health care provider,
15 or a public health activity authorized by law.

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

21 Sec. 1369.554. PROHIBITION ON CERTAIN COMMUNICATIONS. (a)
22 A health benefit plan issuer or pharmacy benefit manager may not
23 steer or direct a patient to use the issuer's or manager's
24 affiliated provider through any oral or written communication,
25 including:

- 26 (1) online messaging regarding the provider; or
- 27 (2) patient- or prospective patient-specific

1 advertising, marketing, or promotion of the provider.

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

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

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

14 Sec. 1369.555. PROHIBITION ON CERTAIN REFERRALS AND
15 SOLICITATIONS. (a) A health benefit plan issuer or pharmacy
16 benefit manager may not require a patient to use the issuer's or
17 manager's affiliated provider in order for the patient to receive
18 the maximum benefit for the service under the patient's health
19 benefit plan.

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

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

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

7 SECTION 2. Sections 1369.555(a) and (b), Insurance Code, as
8 added by this Act, apply only to a health benefit plan delivered,
9 issued for delivery, or renewed on or after the effective date of
10 this Act.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1919 was passed by the House on April 29, 2021, by the following vote: Yeas 128, Nays 16, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1919 on May 28, 2021, by the following vote: Yeas 124, Nays 21, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1919 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor