

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

1 affiliated provider a record containing patient- or
2 prescriber-identifiable prescription information for a commercial
3 purpose.

4 Sec. 1369.553. PROHIBITION ON CERTAIN COMMUNICATIONS. (a)

5 A health benefit plan issuer or pharmacy benefit manager may not
6 steer or direct a patient to use the issuer's or manager's
7 affiliated provider through any oral or written communication,
8 including:

9 (1) online messaging regarding the provider; or

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

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

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

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

24 Sec. 1369.554. PROHIBITION ON CERTAIN REFERRALS AND

25 SOLICITATIONS. (a) A health benefit plan issuer or pharmacy
26 benefit manager may not require a patient to use the issuer's or
27 manager's affiliated provider in order for the patient to receive

1 the maximum benefit for the service under the patient's health
2 benefit plan.

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

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

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

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

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