

By: Schwertner

S.B. No. 727

A BILL TO BE ENTITLED

AN ACT

relating to certain prohibited practices by pharmacy benefit managers.

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

SECTION 1. Section 4151.151, Insurance Code, is amended to read as follows:

Sec. 4151.151. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Affiliated pharmacist or pharmacy" means a pharmacist or pharmacy that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a pharmacy benefit manager.

(2) "Pharmacy [~~pharmacy~~ benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

SECTION 2. Subchapter D, Chapter 4151, Insurance Code, is amended by adding Sections 4151.155 and 4151.156 to read as follows:

Sec. 4151.155. PROHIBITION ON CERTAIN REFERRALS. (a) A pharmacy benefit manager may not steer or direct a patient to use an affiliated pharmacist or pharmacy through any oral or written communication, including:

(1) online messaging regarding the pharmacist or pharmacy; or

1 (2) patient- or prospective patient-specific
2 advertising, marketing, or promotion of the pharmacist or pharmacy.

3 (b) This section does not prohibit a pharmacy benefit
4 manager from including an affiliated pharmacist or pharmacy in the
5 manager's patient communications, including in a patient- or
6 prospective patient-specific communication, if the communication:

7 (1) is regarding in-network pharmacies and prices for
8 a health benefit plan;

9 (2) is accurate; and

10 (3) includes in-network pharmacists or pharmacies
11 that are not affiliated pharmacists or pharmacies.

12 (c) An affiliated pharmacist or pharmacy may not present a
13 claim for payment to any individual or entity, including to a
14 third-party payor, health benefit plan, or pharmacy benefit
15 manager, for a health care service or supply provided to a patient
16 who was improperly steered or directed to use the affiliated
17 pharmacist or pharmacy in violation of Subsection (a).

18 Sec. 4151.156. PROHIBITION ON SHARING PATIENT INFORMATION
19 FOR CERTAIN PURPOSES. (a) In this section, "commercial purpose"
20 does not include pharmacy reimbursement, formulary compliance,
21 pharmaceutical care, utilization review by a health care provider,
22 or a public health activity authorized by law.

23 (b) A pharmacy benefit manager may not transfer to or
24 receive from an affiliated pharmacist or pharmacy a record
25 containing patient- or prescriber-identifiable prescription
26 information for a commercial purpose.

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