

By: Schwertner

S.B. No. 812

A BILL TO BE ENTITLED

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 Coded, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. AFFILIATED PHARMACIES

Sec. 1369.526. DEFINITIONS. In this subchapter:

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

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

Sec. 1369.527. 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 pharmacy benefit manager may not transfer to or receive from an affiliated pharmacy a record containing patient- or prescriber-identifiable prescription information for a commercial purpose.

Sec. 1369.528. PROHIBITION ON CERTAIN COMMUNICATIONS. (a)

1 A health benefit plan issuer or pharmacy benefit manager may not
2 steer or direct a patient to use an affiliated pharmacy through any
3 oral or written communication, including:

4 (1) online messaging regarding the pharmacy; or

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

7 (b) This section does not prohibit a health benefit plan
8 issuer or pharmacy benefit manager from including an affiliated
9 pharmacy in a patient or prospective patient communication, if the
10 communication:

11 (1) is regarding information about the cost or service
12 provided by pharmacies in the network of a health benefit plan in
13 which the patient is enrolled; and

14 (2) includes accurate comparable information
15 regarding pharmacies in the network that are not affiliated
16 pharmacies.

17 Sec. 1369.529. PROHIBITION ON CERTAIN REFERRALS AND
18 SOLICITATIONS. (a) A health benefit plan issuer or pharmacy
19 benefit manager may not require a patient to use an affiliated
20 pharmacy in order for the patient to receive the maximum benefit for
21 the service under the patient's health benefit plan.

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

27 (c) A health benefit plan issuer or pharmacy benefit manager

1 may not solicit a patient or prescriber to transfer a patient
2 prescription to an affiliated pharmacy.

3 (d) A health benefit plan issuer or pharmacy benefit manager
4 may not require a nonaffiliated pharmacy to transfer a patient's
5 prescription to an affiliated pharmacy without the prior written
6 consent of the patient.

7 Section 2. This Act takes effect September 1, 2021.