1-1 By: Harris of Anderson H.B. No. 1647
1-2 (Senate Sponsor - Schwertner)
1-3 (In the Senate - Received from the House April 24, 2023;
1-4 May 1, 2023, read first time and referred to Committee on Health &
1-5 Human Services; May 15, 2023, reported favorably by the following
1-6 vote: Yeas 9, Nays 0; May 15, 2023, sent to printer.)

1-7 COMMITTEE VOTE

1-8		Yea	Nay	Absent	PNV
1-9	Kolkhorst	X			
1-10	Perry	X			
1-11	Blanco	X			
1-12	Hall	X			
1-13	Hancock	X			
1-14	Hughes	X			
1-15	LaMantia	X			
1-16	Miles	X			
1-17	Sparks	X			

1-18 A BILL TO BE ENTITLED
1-19 AN ACT

1-20 relating to health benefit plan coverage of clinician-administered
1-21 drugs.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Chapter 1369, Insurance Code, is amended by
1-24 adding Subchapter Q to read as follows:
1-25 SUBCHAPTER Q. CLINICIAN-ADMINISTERED DRUGS
1-26 Sec. 1369.761. DEFINITIONS. In this subchapter:
1-27 (1) "Administer" means to directly apply a drug to the
1-28 body of a patient by injection, inhalation, ingestion, or any other
1-29 means.
1-30 (2) "Clinician-administered drug" means an outpatient
1-31 prescription drug other than a vaccine that:
1-32 (A) cannot reasonably be:
1-33 (i) self-administered by the patient to
1-34 whom the drug is prescribed; or
1-35 (ii) administered by an individual
1-36 assisting the patient with the self-administration; and
1-37 (B) is typically administered:
1-38 (i) by a physician or other health care
1-39 provider authorized under the laws of this state to administer the
1-40 drug, including when acting under a physician's delegation and
1-41 supervision; and
1-42 (ii) in a physician's office.
1-43 (3) "Health care provider" means an individual who is
1-44 licensed, certified, or otherwise authorized to provide health care
1-45 services in this state.
1-46 (4) "Physician" means an individual licensed to
1-47 practice medicine in this state.
1-48 Sec. 1369.762. APPLICABILITY OF SUBCHAPTER. (a) This
1-49 subchapter applies only to a health benefit plan that provides
1-50 benefits for medical or surgical expenses incurred as a result of a
1-51 health condition, accident, or sickness, including an individual,
1-52 group, blanket, or franchise insurance policy or insurance
1-53 agreement, a group hospital service contract, or an individual or
1-54 group evidence of coverage or similar coverage document that is
1-55 offered by:
1-56 (1) an insurance company;
1-57 (2) a group hospital service corporation operating
1-58 under Chapter 842;
1-59 (3) a health maintenance organization operating under
1-60 Chapter 843;
1-61 (4) an approved nonprofit health corporation that

2-1 holds a certificate of authority under Chapter 844;
2-2 (5) a multiple employer welfare arrangement that holds
2-3 a certificate of authority under Chapter 846;
2-4 (6) a stipulated premium company operating under
2-5 Chapter 884;
2-6 (7) a fraternal benefit society operating under
2-7 Chapter 885;
2-8 (8) a Lloyd's plan operating under Chapter 941; or
2-9 (9) an exchange operating under Chapter 942.
2-10 (b) Notwithstanding any other law, this subchapter applies
2-11 to:
2-12 (1) a small employer health benefit plan subject to
2-13 Chapter 1501, including coverage provided through a health group
2-14 cooperative under Subchapter B of that chapter;
2-15 (2) a standard health benefit plan issued under
2-16 Chapter 1507;
2-17 (3) group health coverage made available by a school
2-18 district in accordance with Section 22.004, Education Code;
2-19 (4) a regional or local health care program operating
2-20 under Section 75.104, Health and Safety Code; and
2-21 (5) a self-funded health benefit plan sponsored by a
2-22 professional employer organization under Chapter 91, Labor Code.
2-23 Sec. 1369.763. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.
2-24 (a) This subchapter does not apply to an issuer or provider of
2-25 health benefits under or a pharmacy benefit manager administering
2-26 pharmacy benefits under:
2-27 (1) the state Medicaid program, including the Medicaid
2-28 managed care program under Chapter 533, Government Code;
2-29 (2) the child health plan program under Chapter 62,
2-30 Health and Safety Code;
2-31 (3) the TRICARE military health system; or
2-32 (4) a workers' compensation insurance policy or other
2-33 form of providing medical benefits under Title 5, Labor Code.
2-34 (b) This subchapter does not apply to a prescription drug
2-35 administered in a hospital, hospital facility-based practice
2-36 setting, or hospital outpatient infusion center.
2-37 Sec. 1369.764. CERTAIN LIMITATIONS ON COVERAGE OF
2-38 CLINICIAN-ADMINISTERED DRUGS PROHIBITED. (a) Subject to
2-39 Subsection (b), a health benefit plan issuer may not, for an
2-40 enrollee with a chronic, complex, rare, or life-threatening medical
2-41 condition:
2-42 (1) require clinician-administered drugs to be
2-43 dispensed only by certain pharmacies or only by pharmacies
2-44 participating in the health benefit plan issuer's network;
2-45 (2) if a clinician-administered drug is otherwise
2-46 covered, limit or exclude coverage for such drugs based on the
2-47 enrollee's choice of pharmacy or because the drug was not dispensed
2-48 by a pharmacy that participates in the health benefit plan issuer's
2-49 network;
2-50 (3) require a physician or health care provider
2-51 participating in the health benefit plan issuer's network to bill
2-52 for or be reimbursed for the delivery and administration of
2-53 clinician-administered drugs under the pharmacy benefit instead of
2-54 the medical benefit without:
2-55 (A) informed written consent of the patient; and
2-56 (B) a written attestation by the patient's
2-57 physician or health care provider that a delay in the drug's
2-58 administration will not place the patient at an increased health
2-59 risk; or
2-60 (4) require that an enrollee pay an additional fee,
2-61 higher copay, higher coinsurance, second copay, second
2-62 coinsurance, or any other price increase for
2-63 clinician-administered drugs based on the enrollee's choice of
2-64 pharmacy or because the drug was not dispensed by a pharmacy that
2-65 participates in the health benefit plan issuer's network.
2-66 (b) Subsection (a) applies only if the patient's physician
2-67 or health care provider determines that:
2-68 (1) a delay of care would make disease progression
2-69 probable; or

3-1 (2) the use of a pharmacy within the health benefit
3-2 plan issuer's network would:
3-3 (A) make death or patient harm probable;
3-4 (B) potentially cause a barrier to the patient's
3-5 adherence to or compliance with the patient's plan of care; or
3-6 (C) because of the timeliness of the delivery or
3-7 dosage requirements, necessitate delivery by a different pharmacy.
3-8 (c) Nothing in this section may be construed to:
3-9 (1) authorize a person to administer a drug when
3-10 otherwise prohibited under the laws of this state or federal law; or
3-11 (2) modify drug administration requirements under the
3-12 laws of this state, including any requirements related to
3-13 delegation and supervision of drug administration.
3-14 SECTION 2. Subchapter Q, Chapter 1369, Insurance Code, as
3-15 added by this Act, applies only to a health benefit plan that is
3-16 delivered, issued for delivery, or renewed on or after January 1,
3-17 2024.
3-18 SECTION 3. This Act takes effect September 1, 2023.

3-19 * * * * *