

BILL ANALYSIS

Senate Research Center
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S.B. 493
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 493 prohibits "gag clauses" in contracts that prevent pharmacies from telling patients when the cash price for a drug is lower than the price under their insurance plan. This bill addresses contractual provisions between some health insurers, pharmacy benefit managers, and pharmacies that prohibit pharmacists from freely informing patients if paying out-of-pocket (cash price) for the prescription may be cheaper than the insured's copay.

Last session, H.B. 711 banned anti-competitive clauses, including gag clauses in contracts between providers and health plans. However, it does not apply to pharmacists or pharmacy contracts, as they are not included in the definition of "providers" in Section 1458.001 of the Texas Insurance Code.

S.B. 493 protects pharmacists' right to counsel patients on the best price option for prescription drugs and promotes greater cost transparency for the consumer by ensuring pharmacists can freely inform patients about the lowest cost prescription options.

As proposed, S.B. 493 amends current law relating to certain protected disclosures by pharmacists and pharmacies regarding amounts charged for prescription drugs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1369, Insurance Code, by adding Subchapter R, as follows:

SUBCHAPTER R. PROTECTED PRACTICES REGARDING PRESCRIPTION DRUG CHARGES

Sec. 1369.801. DEFINITIONS. Defines "enrollee" and "prescription drug."

Sec. 1369.802. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is issued by certain entities.

(b) Provides that, notwithstanding any other law, this subchapter applies to certain health benefit plans.

(c) Provides that this subchapter applies to coverage under a group health benefit plan provided to a resident of this state regardless of whether the group policy, agreement, or contract is delivered, issued for delivery, or renewed in this state.

Sec. 1369.803. PROTECTED DISCLOSURE BY PHARMACISTS AND PHARMACIES. Prohibits an issuer of a health benefit plan that provides prescription drug benefits or a pharmacy benefits manager that administers pharmacy benefits from, by contract or otherwise, prohibiting or restricting a pharmacist or pharmacy from informing an enrollee of any difference between the enrollee's out-of-pocket cost for a prescription drug under the enrollee's health benefit plan and the out-of-pocket cost without submitting a claim under the enrollee's health benefit plan.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: September 1, 2025.