

BILL ANALYSIS

C.S.H.B. 1455
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that pharmacy benefit managers are increasingly auditing pharmacy invoices for purchases from drug wholesalers. It has been suggested that these audits can be abusive, seeking to financially penalize audited pharmacies for technical discrepancies arising from legitimate differences between quantities or drug codes stated on a wholesale invoice and those stated on the dispensed prescription or the submitted claim for that prescription. C.S.H.B. 1455 seeks to curb such audit practices with respect to the audit of pharmacists and pharmacies regarding wholesale invoices.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1455 amends the Insurance Code to prohibit a health benefit plan issuer or pharmacy benefit manager that audits wholesale invoices during an audit of a pharmacist or pharmacy from auditing the pharmacy claims of another health benefit plan or pharmacy benefit manager. The bill requires a health benefit plan issuer or pharmacy benefit manager to reverse a finding of a discrepancy if:

- the National Drug Code for the dispensed drug is in a quantity that is a subunit or multiple of the drug purchased by the pharmacist or pharmacy as supported by a wholesale invoice;
- the pharmacist or pharmacy dispensed the correct quantity of the drug according to the prescription; and
- the drug dispensed by the pharmacist or pharmacy shares all but the last two digits of the National Drug Code of the drug reflected on the supplier invoice.

C.S.H.B. 1455 requires a health benefit plan issuer or pharmacy benefit manager to accept as evidence to support the validity of a pharmacy claim related to a dispensed drug copies of supplier invoices in the pharmacist's or pharmacy's possession, subject to validation, including supplier invoices issued before the date the drug was dispensed and not earlier than 60 days before the first day of the audit period and invoices and any supporting documents from any supplier authorized by federal or state law to transfer ownership of the drug acquired by the pharmacist or pharmacy, and reports required by any state board or agency. The bill requires a health benefit plan issuer or pharmacy benefit manager to provide, not later than the fifth

business day after the date of a request by the pharmacist or pharmacy, any supporting documents the pharmacist's or pharmacy's suppliers provided to the health benefit plan issuer or pharmacy benefit manager.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1455 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises certain of the conditions triggering the requirement for a health benefit plan issuer or pharmacy benefit manager to reverse a finding of a discrepancy. The substitute specifies that supplier invoices required to be accepted by such an issuer or manager as evidence to support the validity of a pharmacy claim are subject to validation and limits the period within which an invoice is issued in order for the invoice to be accepted as evidence. The substitute also includes any supporting documents from certain authorized suppliers as evidence that must be accepted.

The substitute does not include a prohibition against a health benefit plan issuer or pharmacy benefit manager recouping any amount based on a wholesale invoice discrepancy under certain circumstances.