

SUBJECT: Prohibiting changes to a prescription drug order

COMMITTEE: Public Health — favorable, without amendment

VOTE: 5 ayes — Laubenberg, Jackson, McReynolds, Truitt, Zedler

0 nays

4 absent — Delisi, Coleman, Dawson, Solis

WITNESSES: For — John Jeff Carson, Texas Pharmacy Association; *Registered, but did not testify*: Buddy de la Rosa, Dennis Song, and Richard Beck, Academy of American Pharmacies; Jim Caldwell and Carlos Higgins, Texas Silver Haired Legislature; Robert Culley, TRUECARE pharmacy; Hilary Dennis, Texas Medical Association; Ed Horton, Kristie Zamrazil, Texas Pharmacy Association; David King, Texas Federation of Drug Stores; Lisa Kocian, Cristin Wohlgemuth, Johnnie Rogers, Academy of Independent Pharmacists; Danny Ray; JB Hills

Against — None

BACKGROUND: Texas offers health insurance benefits to state employees, teachers, and retirees under the Texas Employees Group Benefits Act, Texas Public School Employees Group Benefits Program, and Texas School Employees Uniform Group Health Coverage Act.

Occupations Code, ch. 562, permits a pharmacist to substitute a generic for a brand drug if the provider has not specified that the brand drug is medically necessary. Otherwise, a pharmacist is prohibited from substituting one drug for another.

DIGEST: HB 2145 would prohibit a pharmacy or pharmacist from changing the medication in a prescription written by a provider under the state employees', teachers', or retirees' health plans. The prohibition would not apply to a generic substitution.

The bill would apply to health plans beginning in the 2005-06 plan year and would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Texas should explicitly ban therapeutic exchanges, substituting one drug for another in the same therapeutic class. The state permits pharmacists to dispense only what is written on a prescription, except in the case of generic drug substitution. However, as the marketplace has evolved, some health care payors have adopted policies that would suggest therapeutic substitutions also should be permitted.

Many purchasers of health plans, the state of Texas included, use pharmacy benefit managers (PBMs) to fill prescription drugs for recipients. PBMs work like a managed care plan in that they control costs by managing utilization of services. In guiding customers toward drugs with a preferred pricing, some PBMs have engaged in marketing that could be interpreted as changing prescriptions. They have sent out letters to patients with what looks like a prescription attached for a new drug, one that is similar to the one the patient already takes, but is not the same.

**OPPONENTS
SAY:**

This bill is not needed because it already is against the law for a pharmacist to dispense any other drug than the one prescribed.

The concerns about PBMs' influence over drug purchasing is based only on pharmacists' interest in protecting their own professional interests. Direct-to-consumer advertising and other sources of information have just as much influence over patient behavior, and the decision about what to prescribe continues to reside solely with the doctor. If a substitution would save the patient money because of lower co-payments, then the PBM should inform the patient.

NOTES:

The companion bill, SB 1024 by Deuell, has been referred to the Senate State Affairs Committee.