

- SUBJECT:** Regulating certain conduct by discount health care programs
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 8 ayes — Frullo, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman  
0 nays  
1 absent — Muñoz
- WITNESSES:** For — Jay Bueche, Texas Federation of Drug Stores; (*Registered, but did not testify:* Audra Conwell, Alliance of Independent Pharmacists of Texas; Price Ashley, National Association of Chain Drug Stores (NACDS); Bradford Shields, Texas Federation of Drug Stores; Duane Galligher, Texas Independent Pharmacy Association; Justin Hudman, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; Morris Wilkes, United Supermarkets; Karen Reagan, Walgreens)  
  
Against — (*Registered, but did not testify:* Allen Erenbaum, Consumer Health Alliance)  
  
On — (*Registered, but did not testify:* Jamie Walker, Texas Department of Insurance)
- BACKGROUND:** Insurance Code, sec. 7001.001 defines "discount health care program" to mean a business arrangement or contract in which an entity, in exchange for fees, dues, charges, or other consideration, offers its members access to discounts on health care services provided by health care provider. The term does not include an insurance policy, certificate of coverage, or other product otherwise regulated by the department or a self-funded or self-insured employee benefit plan.  
  
"Discount health care program operator" under ch. 7001 means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access

to health care services at a discount and determines the charge to members.

DIGEST: CSHB 3028 would prohibit a pharmacy benefit manager from requiring a pharmacist or pharmacy to:

- accept or process a claim for prescription drugs under a discount health care program, unless the pharmacist or pharmacy agreed in writing to accept or process the claim;
- participate in a specified provider network as a condition of processing a claim for prescription drugs under a discount health care program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

The bill would specify that certain actions were an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs. These actions include a discount health care program operator or its affiliate or agent requiring a pharmacy or pharmacist to:

- participate in a specified provider network as a condition of processing a claim for prescription drugs under the discount health care program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

The bill also would specify that it would be an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for an operator to pay any consideration to a health care services provider or employee of a health care services provider:

- to encourage an individual to claim a discount for prescription drugs under a discount health care program; or
- to include discount health care program information on a

prescription for a drug or in materials accompanying the prescription.

In addition, the bill would specify that it would be an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for an operator to provide a person with written prescription forms that could reasonably mislead a person to believe that the discount health care program was health insurance or would provide coverage similar to health insurance.

The bill would take effect September 1, 2015, and would apply only to conduct that occurred or to a claim that was filed on or after that date.