

BILL ANALYSIS

Senate Research Center
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S.B. 1176
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Independent pharmacies increasingly use pharmacy services administration organizations, or PSAOs, to enter into contracts on their behalf with third party payers such as pharmacy benefit managers (PBMs). PSAOs serve pharmacies by allowing them to outsource various administrative functions, such as reimbursement appeals, and generally serve as a watchdog for pharmacists to make sure they are being treated fairly and reasonably under state and federal law, as well as under the terms of the provider contract.

S.B. 1176 defines PSAOs in the Texas Insurance Code, and clarifies that a pharmacy benefit manager must recognize the authority of a pharmacy services administrative organization to conduct a pharmacy's business with the pharmacy benefit manager if authorized by a pharmacy.

As proposed, S.B. 1176 amends current law relating to the authority and rights of pharmacy services administrative organizations to conduct the business of independent pharmacies with respect to certain pharmacy benefits.

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 Subchapter I, Chapter 843, Insurance Code, by adding Section 843.324, as follows:

Sec. 843.324. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS. (a) Defines in this section "independent pharmacy," "pharmacy benefit manager," and "pharmacy services administrative organization."

(b) Provides that this section applies to a Medicaid managed care program and a managed care organization that contracts with the Health and Human Services Commission to provide services under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code.

(c) Provides that this section does not apply with respect to pharmacy benefits under a self-insured, self-funded, or other employee welfare benefit plan that is exempt from state regulation under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(d) Authorizes a pharmacy services administrative organization designated and authorized by an independent pharmacy as the pharmacy's agent and vested with actual authority to conduct the pharmacy's business with a pharmacy benefit manager in connection with pharmacy benefits provided under a health maintenance organization plan and administered by a pharmacy benefit manager, subject to Subsection (e).

(e) Requires a pharmacy, before a pharmacy services administrative organization may act on behalf of the independent pharmacy as described by Subsection (d), to provide written notice to the pharmacy benefit manager that the organization has the authority to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. Requires that the notice detail the specific nature and scope of the authority granted to the organization with respect to the pharmacy's business with the pharmacy benefit manager.

(f) Requires a pharmacy benefit manager that receives a notice under Subsection (e) to recognize the authority of the pharmacy services administrative organization to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. Prohibits a pharmacy benefit manager from refusing to deal with the organization to the extent of the authority detailed in the notice, including by refusing to:

(1) enter into a contract with the organization acting on behalf of the independent pharmacy on terms agreed to by the pharmacy benefit manager and organization; or

(2) communicate with the organization about any matter relevant to the pharmacy or pharmacy benefits, including contract provisions, maximum allowable cost lists, and reimbursement price appeals.

(g) Prohibits a pharmacy benefit manager from requiring an independent pharmacy acting through a pharmacy services administrative organization under this section to participate as a network provider or preferred provider under a particular health benefit plan as a condition of participating as a network provider or preferred provider under another health benefit plan.

(h) Provides that a pharmacy services administrative organization has the same rights and obligations under this chapter as the independent pharmacy on behalf of which the organization acts with respect to pharmacy benefits provided under a health maintenance organization plan and administered by a pharmacy benefit manager, to the extent of the organization's authority to act with respect to those benefits.

SECTION 2. Amends Subchapter B, Chapter 1301, Insurance Code, by adding Section 1301.070, as follows:

Sec. 1301.070. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS.

(a) Defines in this section "independent pharmacy," "pharmacy benefit manager," and "pharmacy services administrative organization."

(b) Provides that, notwithstanding Section 1301.0041 (Applicability), this section applies to a Medicaid managed care program and a managed care organization that contracts with the Health and Human Services Commission to provide services under Chapter 533, Government Code.

(c) Provides that this section does not apply with respect to pharmacy benefits under a self-insured, self-funded, or other employee welfare benefit plan that is exempt from state regulation under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(d) Authorizes a pharmacy services administrative organization, subject to Subsection (e), designated and authorized by an independent pharmacy as the pharmacy's agent and vested with actual authority to conduct the pharmacy's business with a pharmacy benefit manager in connection with pharmacy benefits provided under a preferred provider benefit plan and administered by a pharmacy benefit manager.

(e) Requires a pharmacy, before a pharmacy services administrative organization may act on behalf of the independent pharmacy as described by Subsection (d), to provide written notice to the pharmacy benefit manager that the organization has the authority to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. Requires that the notice detail the specific nature and scope of the authority granted to the organization with respect to the pharmacy's business with the pharmacy benefit manager.

(f) Requires a pharmacy benefit manager that receives a notice under Subsection (e) to recognize the authority of the pharmacy services administrative organization to conduct the pharmacy's business with the pharmacy benefit manager to the extent provided in the notice. Prohibits a pharmacy benefit manager from refusing to deal with the organization to the extent of the authority detailed in the notice, including by refusing to:

(1) enter into a contract with the organization acting on behalf of the independent pharmacy on terms agreed to by the pharmacy benefit manager and organization; or

(2) communicate with the organization about any matter relevant to the pharmacy or pharmacy benefits, including contract provisions, maximum allowable cost lists, and reimbursement price appeals.

(g) Prohibits a pharmacy benefit manager from requiring an independent pharmacy acting through a pharmacy services administrative organization under this section to participate as a network provider or preferred provider under a particular health benefit plan as a condition of participating as a network provider or preferred provider under another health benefit plan.

(h) Provides that a pharmacy services administrative organization has the same rights and obligations under this chapter as the independent pharmacy on behalf of which the organization acts with respect to pharmacy benefits provided under a preferred provider benefit plan and administered by a pharmacy benefit manager, to the extent of the organization's authority to act with respect to those benefits.

SECTION 3. Provides that this Act applies only to benefits provided under a health benefit plan that is delivered, issued for delivery, or renewed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.