

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 895  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns have been raised that the applicability of certain drug formulary disclosure requirements passed in a recent legislature requires clarification. S.B. 895 addresses this issue by specifying that these disclosure requirements apply to the individual health insurance market.

As proposed, S.B. 895 amends current law relating to the transparency of certain information related to prescription drug coverage provided by certain health benefit plans.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 2 (Sections 1369.078 and 1369.079, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

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

#### **SUBCHAPTER B-1. TRANSPARENCY REQUIREMENTS FOR CERTAIN INDIVIDUAL HEALTH BENEFIT PLANS**

Sec. 1369.076. DEFINITIONS. Provides that, in this subchapter, terms defined by Subchapter B (Coverage of Prescription Drugs Specified by Drug Formulary) have the meanings assigned by that subchapter.

Sec. 1369.077. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to a health benefit plan (plan) that provides prescription drug coverage under an individual plan to which Subchapter B applies and uses one or more drug formularies to specify the prescription drugs covered under the plan.

SECTION 2. Transfers Sections 1369.0542, 1369.0543, and 1369.0544, Insurance Code, to Subchapter B-1, Insurance Code, redesignates them as Sections 1369.078, 1369.079, and 1369.080 and amends them, as follows:

Sec. 1369.078. FORMULARY INFORMATION ON INTERNET WEBSITE. (a) Requires a plan issuer to display on a public website maintained by the issuer formulary information for each of the issuer's individual plans as required by the commissioner of insurance by rule.

(b) Requires that a direct electronic link to the formulary information be displayed in a conspicuous manner in the electronic summary of benefits and coverage of each individual plan, rather than of each plan, issued by the plan issuer on the issuer's website.

Sec. 1369.079. FORMULARY DISCLOSURE REQUIREMENTS. (a) Makes a conforming change.

(b) Requires the requirements adopted under Subsection (a) (relating to requiring the commissioner to develop and adopt, by rule, certain requirements) to apply to

each prescription drug included in a formulary and dispensed in a network pharmacy or covered under an individual plan, rather than under a plan, and typically administered by a physician or health care provider.

(c) Requires the formulary disclosures to, among certain other requirements, indicate each formulary that applies to each individual plan issued by the issuer.

(d) Requires that the formulary disclosures include for each drug, among certain other information, the specific tier for each drug listed in the formulary, if the individual plan uses a tier-based formulary.

(e) Authorizes the commissioner, by rule, to allow an alternative method of making required disclosures relating to cost-sharing through a web-based tool that is required to, among certain other requirements, allow consumers to electronically search formulary information by the name under which the individual plan is marketed.

Sec. 1369.080. FORMULARY INFORMATION PROVIDED BY TOLL-FREE TELEPHONE NUMBER. Authorizes a plan issuer, in addition to providing the information described by Section 1369.079(d)(1) in the required manner, rather than in addition to providing the information described by Section 1369.0543(d)(1), to make the information available to certain persons through a toll-free telephone number that operates at least during normal business hours.

SECTION 3. Makes application of this Act prospective to September 1, 2017.

SECTION 4. Effective date: September 1, 2017.