

SUBJECT: Prohibiting the requirement that certain drugs be dispensed by a pharmacy

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Oliverson, Vo, J. González, Israel, Romero

4 nays — Hull, Middleton, Paul, Sanford

WITNESSES: For — Binita Patel, Memorial Hermann and Texas Hospital Association; James Schwartz, NCODA, COPA, and Texas Oncology; Roy Paulson, Texas Oncology, Texas Society of Clinical Oncology, and The US Oncology Network; Sarah Lake-Wallace, Texas Society of Health-System Pharmacists; (*Registered, but did not testify*: Lindsay Lanagan, Legacy Community Health; David Reynolds, Texas Chapter American College of Physicians; Clayton Stewart, Texas Medical Association; Duane Galligher, Texas Pharmacy Association; Ware Wendell, Texas Watch; Thomas Parkinson)

Against — Carl Isett, Texas Association of Benefit Administrators; Jamie Dudensing, Texas Association of Health Plans; Bill Hammond, Texas Employers for Insurance Reform; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans; Patricia Kolodzey, Blue Cross Blue Shield of Texas; Mindy Ellmer, Pharmaceutical Care Management Association.; Megan Herring, Texas Association of Business; Jennifer Cawley, Texas Association of Life and Health Insurers)

On — (*Registered, but did not testify*: Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Concerns have been raised that some health benefit plans engage in a policy that requires specialty drugs to be purchased through an insurer's exclusive specialty pharmacy of choice and then ship those drugs to the site of care in which the patient will receive treatment. Suggestions have been made to allow clinicians to choose where to obtain specialty drugs, avoiding delays in medication administration and reducing drug waste.

DIGEST:

CSHB 1586 would prohibit a health benefit plan issuer from requiring a clinician-administered drug to be dispensed by a pharmacy or requiring that a clinician-administered drug or the administration of that drug be covered as a pharmacy benefit rather than a medical benefit. This prohibition would apply to a patient with a cancer or cancer-related diagnosis.

The bill would define "clinician-administered drug" as an outpatient prescription drug other than a vaccine that could not reasonably be self-administered by the patient or administered by an individual assisting the patient with the self-administration. The term also would mean an outpatient prescription drug that was typically administered by an authorized health care provider in certain clinical settings.

Applicability. The bill would apply only to certain health plans issued by organizations specified in the bill, including:

- a plan issued by a health maintenance organization;
- a small employer health plan subject to the Health Insurance Portability and Availability Act;
- a consumer choice of benefits plan; and
- a self-funded health plan sponsored by a professional employer organization.

Exceptions. The bill would not apply to an issuer or provider of health benefits under or a pharmacy benefit manager administering pharmacy benefits under a workers' compensation insurance policy or other form of providing medical benefits under the Texas Workers' Compensation Act.

Other provisions. The bill could not be construed to authorize a person to administer a drug when otherwise prohibited under state or federal law, or modify drug administration requirements under state law, including any requirements related to delegation and supervision of drug administration.

The bill would take effect September 1, 2021, and would apply only to a health plan that was issued or renewed on or after January 1, 2022.

