

1-1 By: Kolkhorst, Lucio S.B. No. 2195
1-2 (In the Senate - Filed April 11, 2021; April 12, 2021, read
1-3 first time and referred to Committee on Health & Human Services;
1-4 April 26, 2021, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 26, 2021,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2195 By: Seliger

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the relationship between pharmacists or pharmacies and
1-22 pharmacy benefit managers or health benefit plan issuers.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter D, Chapter 4151, Insurance Code, is
1-25 amended by adding Section 4151.155 to read as follows:

1-26 Sec. 4151.155. REDUCTION OF CERTAIN CLAIM PAYMENT AMOUNTS
1-27 PROHIBITED. (a) A pharmacy benefit manager may not directly or
1-28 indirectly reduce the amount of a claim payment to a pharmacist or
1-29 pharmacy after adjudication of the claim through the use of an
1-30 aggregated effective rate, a quality assurance program, other
1-31 direct or indirect remuneration fee, or otherwise, except in
1-32 accordance with an audit.

1-33 (b) Nothing in this section prohibits a pharmacy benefit
1-34 manager from increasing a claim payment amount after adjudication
1-35 of the claim.

1-36 (c) Notwithstanding any other law, this section applies to
1-37 the Medicaid managed care program operated under Chapter 533,
1-38 Government Code.

1-39 SECTION 2. Chapter 562, Occupations Code, is amended by
1-40 adding Subchapter E to read as follows:

1-41 SUBCHAPTER E. CONTRACTS WITH PHARMACISTS AND PHARMACIES

1-42 Sec. 562.201. DEFINITION. In this subchapter, "pharmacy
1-43 benefit manager" has the meaning assigned by Section 4151.151,
1-44 Insurance Code.

1-45 Sec. 562.202. APPLICABILITY OF SUBCHAPTER. (a) This
1-46 subchapter applies only to a health benefit plan that provides
1-47 benefits for medical or surgical expenses incurred as a result of a
1-48 health condition, accident, or sickness, including an individual,
1-49 group, blanket, or franchise insurance policy or insurance
1-50 agreement, a group hospital service contract, or an individual or
1-51 group evidence of coverage or similar coverage document that is
1-52 offered by:

1-53 (1) an insurance company;

1-54 (2) a group hospital service corporation operating
1-55 under Chapter 842, Insurance Code;

1-56 (3) a health maintenance organization operating under
1-57 Chapter 843, Insurance Code;

1-58 (4) an approved nonprofit health corporation that
1-59 holds a certificate of authority under Chapter 844, Insurance Code;

1-60 (5) a multiple employer welfare arrangement that holds

2-1 a certificate of authority under Chapter 846, Insurance Code;
 2-2 (6) a stipulated premium company operating under
 2-3 Chapter 884, Insurance Code;
 2-4 (7) a fraternal benefit society operating under
 2-5 Chapter 885, Insurance Code;
 2-6 (8) a Lloyd's plan operating under Chapter 941,
 2-7 Insurance Code; or
 2-8 (9) an exchange operating under Chapter 942, Insurance
 2-9 Code.

2-10 (b) Notwithstanding any other law, this subchapter applies
 2-11 to:

2-12 (1) a small employer health benefit plan subject to
 2-13 Chapter 1501, Insurance Code, including coverage provided through a
 2-14 health group cooperative under Subchapter B of that chapter;

2-15 (2) a standard health benefit plan issued under
 2-16 Chapter 1507, Insurance Code;

2-17 (3) health benefits provided by or through a church
 2-18 benefits board under Subchapter I, Chapter 22, Business
 2-19 Organizations Code;

2-20 (4) a regional or local health care program operated
 2-21 under Section 75.104, Health and Safety Code; and

2-22 (5) a self-funded health benefit plan sponsored by a
 2-23 professional employer organization under Chapter 91, Labor Code.

2-24 Sec. 562.203. PROFESSIONAL STANDARDS AND SCOPE OF PRACTICE
 2-25 REQUIREMENTS. A health benefit plan issuer or pharmacy benefit
 2-26 manager may not as a condition of a contract with a pharmacist or
 2-27 pharmacy:

2-28 (1) require pharmacist or pharmacy accreditation
 2-29 standards or recertification requirements inconsistent with, more
 2-30 stringent than, or in addition to federal and state requirements;
 2-31 or

2-32 (2) prohibit a licensed pharmacist or pharmacy from
 2-33 dispensing any drug, including a specialty drug, that may be
 2-34 dispensed under the pharmacist's or pharmacy's license unless
 2-35 applicable state or federal law prohibits the pharmacist or
 2-36 pharmacy from dispensing the drug.

2-37 Sec. 562.204. RESTRICTIONS ON MAIL ORDER PHARMACY SERVICES.
 2-38 A pharmacy benefit manager may not require an enrollee to use a mail
 2-39 order pharmacy.

2-40 Sec. 562.205. DELIVERY OF DRUGS. Except in a case in which
 2-41 the health benefit plan issuer or pharmacy benefit manager makes a
 2-42 credible allegation of fraud against the pharmacist or pharmacy and
 2-43 provides reasonable notice of the allegation and the basis of the
 2-44 allegation to the pharmacist or pharmacy, a health benefit plan
 2-45 issuer or pharmacy benefit manager may not as a condition of a
 2-46 contract with a pharmacist or pharmacy prohibit the pharmacist or
 2-47 pharmacy from:

2-48 (1) mailing or delivering a drug to a patient on the
 2-49 patient's request, to the extent permitted by law; or

2-50 (2) charging a shipping and handling fee to a patient
 2-51 requesting a prescription be mailed or delivered if the pharmacist
 2-52 or pharmacy discloses to the patient before the delivery:

2-53 (A) the fee that will be charged; and

2-54 (B) that the fee may not be reimbursable by the
 2-55 health benefit plan issuer or pharmacy benefit manager.

2-56 Sec. 562.206. WAIVER PROHIBITED. The provisions of this
 2-57 subchapter may not be waived, voided, or nullified by contract.

2-58 SECTION 3. The change in law made by this Act applies only
 2-59 to a contract entered into or renewed on or after the effective date
 2-60 of this Act. A contract entered into or renewed before the
 2-61 effective date of this Act is governed by the law as it existed
 2-62 immediately before the effective date of this Act, and that law is
 2-63 continued in effect for that purpose.

2-64 SECTION 4. This Act takes effect September 1, 2021.

2-65 * * * * *