



**88<sup>th</sup> Texas Legislature  
End of Session Report**

**HB 2324 Allison – *Relating to the regulation of certain health professionals and health facilities.***

- HB 2324 was TDS's priority legislation for the session. It clarified the regulation of medical titles being used inappropriately both in facilities and in advertising, and would apply to all levels of health care providers. The bill protects patients from non-physician medical professionals who are currently portraying themselves as physicians in facility settings using deceptive advertising language and titles on their medical badges. The legislation would help the health care industry be more transparent and safer for patients, and ensure that current laws are being properly enforced. However, as filed the legislation included language pertaining badging requirements and penalties in hospital facilities. Opposition from the hospital industry was a challenge to overcome. ***The bill was referred to House Public Health, where it was left pending and eventually died.***

**HB 633 Frank/Harless – *Relating to the method of payment for certain health care provided by a hospital.***

- This bill requires health care providers to accept full cash payment directly from patients, including health benefit plan enrollees, for a health care service provided in the hospital at the patient's request. It also prohibits the direct cash payment from exceeding the lowest contracted rate for the health care service that the hospital has agreed to accept as payment in full as a contracted, preferred, or participating provider of a health benefit plan. ***This bill died in the house.***

**HB 711 Frank/Harless/Bonnen – *Relating to certain contract provisions and conduct affecting health care provider networks.***

- This bill insurers and providers from entering into a network contract that includes an all-or-nothing, anti-steering, anti-tiering, gag, or most favored nation clauses. ***This bill has been sent to the Governor.***

**HB 1073 Hull – *Relating to certain health care services contract arrangements entered into by insurers and health care providers.***

- HB 1073 clarifies that a provider who enters into a preferred provider benefit plan or an exclusive provider benefit plan to not be required to obtain a certificate of authority, as they are not considered "insurers," and sets out contract terms that must be included in these payment models. In addition, the bill ensures that doctors are not forced into value-based care arrangements. The bill was perceived by some to capitate reimbursement to specialty care providers. ***This bill passed out of the House but died in the Senate.***

**HB 1190** Klick/Howard/Bonnen – *Relating to the prescribing and ordering of Schedule II controlled substances by certain advanced practice registered nurses and physician assistants.*

- This bill would allow a physician to delegate to an APRN the prescribing or ordering of a schedule II controlled substance as established by the Department of State Health Services commissioner as part of a narcotic drug treatment program. ***This bill passed out of the House but died in the Senate.***

**HB 1240** Oliverson – *Relating to the authority of a physician to provide and dispense and to delegate authority to provide and dispense certain drugs.*

- HB 1240 authorizes a physician to dispense dangerous drugs (excluding Schedule II-V) to patients without obtaining a license to practice pharmacy. It would require a physician who dispenses dangerous drugs to oversee compliance with the state and federal laws relating to such drugs and, before providing or dispensing dangerous drugs, to notify the patient that the prescription for the drug may be filled at a pharmacy. It also prohibited the physician from earning a profit on the dispensing a drug – he or she could recover their costs, but the bill’s author preferred that dispensing remain a patient benefit, not a physician profit center. ***This bill passed out of the House Public Health and was scheduled for debate in the full House, but was not reached prior to end of session deadlines, and died.***

**HB 1647** Harris/Cody/Schwertner – *Relating to health benefit plan coverage of clinician-administered drugs.*

- This bill, commonly referred to as the “white bagging” legislation, prohibits a health benefit plan, for an individual with a chronic, complex, rare, or life-threatening medical condition, from requiring clinician-administered drugs to be dispensed only by certain pharmacies, limiting or excluding coverage for clinician-administered drugs based on the enrollee’s choice of pharmacy, requiring a health care provider to bill for or be reimbursed for the delivery and administration of clinician-administered drugs under the pharmacy benefit without informed written consent of the patient and written attestation of the provider, or requiring a price increase for clinician-administered drugs based on the pharmacy. ***This bill has been sent to the Governor.***

**HB 1692** Frank/Klick – *Relating to facility fees charged by certain health care providers; providing an administrative penalty.*

- This bill would have prohibited healthcare providers from charging “hospital facility fees” for services not performed at a hospital. Additionally, it would have prohibited charging a facility fee for any service that can be safely and effectively provided outside of a hospital setting. This will decrease costs for patients and discourage financial arbitrage where fewer choices for healthcare are available. ***The bill was left pending in House Select on Health Care Reform, where it stayed and died.***

**HB 2414** Frank– *Relating to certain practices of a health maintenance organization or insurer to encourage the use of certain physicians and health care providers.*

- This bill would have grant health maintenance organizations (HMOs) and health care insurers the authority to incentivize enrollees or insured individuals to utilize certain physicians or providers, who would be tiered by the HMO. These incentives would have involved adjustments to deductibles, copayments, coinsurance, or other cost-sharing provisions. ***This bill passed out of the House but died in the Senate.***

**HB 2544/HB 700 Oliverson – *Relating to creation of the Texas Health Insurance Exchange.***

- This bill would create the Texas Health Insurance Exchange, a Texas-run Health Insurance Marketplace to compete with the federal health care exchange created by the Affordable Care Act. The thinking was that Texas-based insurance solutions would help consumers understand, compare, and enroll in comprehensive health insurance options made affordable through sliding-scale subsidies. ***This legislation was left pending in House Select on Health Care Reform, where it stayed and died.***

**HB 3359 Bonnen/Schwertner/LaMantia – *Relating to network adequacy standards and other requirements for preferred benefit plans.***

- This bill was heavily negotiated by providers and health plans. It establishes a framework to address concerns about network adequacy in healthcare plans. The bill sets distance limitations for in-network care, ensuring that patients do not have to travel excessively for services covered under their plan. It also requires the Texas Department of Insurance (TDI) certify these plans before they can be marketed within the state. To improve network accessibility, the legislation restricts the repeated use of waivers when there are insufficient in-network physicians, providers, and facilities in a service area. To bolster transparency, it mandates a public hearing to confirm that the carrier is making a genuine effort to meet network standards. The bill strengthens TDI's data collection and enforcement capabilities, prevents health plans from independently implementing adverse contract changes, and ensures adherence to state surprise billing laws. HB 3359 exempts certain issues from requiring public hearings, eliminates excessive rulemaking authority, and establishes crucial definitions for time and distance. ***The bill has been sent to the Governor.***

**HB 4071 Klick – *Relating to the licensing and regulation of advanced practice registered nurses.***

- This bill would remove physician oversight of the health care team and allow advanced practice registered nurses (APRNs) to practice independently. HB 4071 would enable APRNs to independently diagnose and treat patients, prescribe drugs, including controlled substances, and serve as the primary care clinician of record, among other provisions. The legislation would also add APRNs as mental health professionals. ***The bill was referred to House Public Health, where it died.***

**HB 4343 Bonnen – *Relating to health benefit plan preauthorization requirements for certain health care services and the direction of utilization review by physicians.***

- This bill would have expanded upon the efforts from the last legislative session, commonly called the "Gold Card" bill, which reduce prior authorization burdens on physicians. Last session, Health Maintenance Organizations (HMOs) were required to exempt frequently performed, or "gold card status," procedures from prior authorization requirements, on the condition that physicians

achieved a 90% approval rate for the requested procedure or service. HB 4343 empowered the Texas Medical Board (TMB) to initiate proceedings against a physician if they receive a complaint alleging the arbitrary direction of a utilization review or a lack of sound medical basis. In serious cases where a review results in significant injury or death, the TMB could penalize the physician involved, ensuring greater accountability in healthcare. ***The bill received a hearing in the House Committee on Public Health, where it stayed and eventually died.***

**SB 29** Birdwell/Bettencourt/Blanco– ***Relating to prohibited governmental entity implementation or enforcement of a vaccine mandate, mask requirement, or private business or school closure to prevent the spread of COVID-19.***

- This bill restricts any state or local government entity from enforcing mandates aimed at curbing COVID-19 spread, including compulsory mask wearing, mandatory COVID-19 vaccination, or shutting down of private businesses or schools. Although most of these mandates are currently not in effect due to gubernatorial disaster orders, SB 29 would remove the necessity for such orders by legislating the prevention of such mandates. Exceptions to the mask mandate prohibition include state-supported living centers, criminal justice facilities, municipal or county jails, and government-owned hospitals or health care facilities, provided their rules or guidance conflict with this limitation. ***This bill was signed by the Governor and goes into effect on September 1, 2023.***

**SB 490** Hughes/Bettencourt/Hancock – ***Relating to itemized billing for health care services and supplies provided by health care provider.***

- This bill is intended to enhance transparency in medical billing by mandating health care providers to issue an itemized bill before attempting to collect final amounts due from the patient. The bill seeks to ensure that patients are aware of the services they are being charged for and their respective costs, facilitating the verification of the accuracy of the bill. Under this legislation, the itemized bill should contain a detailed list of each medical service provided, the amount the provider will accept as full payment for each service, and a plain language description of the service. This requirement applies only if the provider seeks payment from the patient; if no payment is requested, no itemized bill is necessary. If providers fail to comply, they will be restricted from pursuing debt collection for the services provided and may face disciplinary action from the relevant licensing authority. The legislation was strenuously opposed by many provider groups, but with more than 100 House co-authors, passage in some form was very likely. Many of the more challenging provisions of the filed version were modified during the legislative process. ***This bill was signed by the Governor and goes into effect on September 1, 2023.***

**SB 1120** Schwertner/King – ***Relating to certain prohibited practices by a barber or cosmetologist.***

- SB 1120 would prohibit a person performing a barbering or cosmetology service from making an incision into the dermis layer of a person's skin, including for purposes of injecting a medication or other substance, or using a prescription medical device approved by the FDA. ***This bill passed in the Senate but died in the House.***

**SB 1140** Schwertner/Oliverson – *Relating to the adequacy and effectiveness of managed care plan networks.*

- The bill granted the Office of Public Insurance Council (OPIC) the authority to monitor the adequacy of TDI-regulated health plan networks. This includes monitoring TDI approval of managed care organization network adequacy waivers and allowing OPIC to intervene in proceedings related to network adequacy on behalf of consumers. Additionally, the bill would have required OPIC to create report cards for EPO and PPO plans, in addition to the existing ones for HMO plans. ***This bill passed in the Senate but died in the House.***

**SB 2527** Campbell – *Relating to the regulation of telemedicine medical services, teledentistry services, and telehealth services.*

- This bill would prevent telemedicine medical services from prescribing any Schedule II controlled substances and Schedule III and IV narcotics, with the exception of buprenorphine, without an in-person examination of the patient at least once with the 12-month period preceding the prescription or refill prescription. Further, a prescription for Schedule III, IV, and V controlled substances, other than narcotics, is permitted without an in-person examination up to a limited initial 30-day supply. In addition, this legislation would prevent health professionals offering telemedicine medical or telehealth services to advertise to patients their ability to prescribe controlled substances as a telemedicine medical or telehealth service. ***This bill passed in the Senate but died in the House.***

*As always, it is our pleasure to be your voice at the Texas State Capitol. Please feel free to reach out with any questions, comments or concerns that you may have. We look forward to continuing to serve the interests of TDS in the upcoming Legislative Special Session and the interim.*

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