

HB 2277 -2 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/20, 3/29

WHAT THE MEASURE DOES:

Clarifies regulation of third-party insurance plan administrators (TPAs) for self-insured employer health plans. Removes existing licensure exemption for insurance companies and TPAs that solely operate on behalf of self-insured employer health plans. Clarifies that insurer is responsible for activities of TPAs that insurer has contracted with for plan administration. Becomes operative on January 2, 2024. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- What is third-party administrator (TPA)
- Regulation of health insurance plans
- Need to make clear statement about what expectations are for TPA activity
- Plans exempt from state regulation under Employee Retirement Security Act (ERISA)
- Establishment of fee
- Increase in number of consumer complaints related to TPAs
- Why Department of Consumer and Business Services (DCBS) needs to understand what is occurring in market

EFFECT OF AMENDMENT:

-2 Replaces measure. Requires health insurers that act as third-party administrators (TPA) for self-funded employer plans to register to register with Department of Consumer and Business Services (DCBS) and provide, annually, list of names and contact information for all bona fide employee benefit plans for which insurer acts as TPA. Information received by Director is confidential. Requires pharmacy benefit manager (PBM) to register with DCBS. Establishes fee for registration or renewal at \$200 per year or amount set by Director of DCBS by rule. Clarifies that insurer that uses TPA is responsible for acts of TPA and will ensure that TPA administrators insurers' program competently. Requirements become operative January 2, 2024. Takes effect on 91st day following sine dies adjournment.

BACKGROUND:

Third-party administrators (TPAs) are any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Oregon or residents of another state from offices in Oregon, in connection with life insurance or health insurance coverage. The Department of Consumer and Business Services (DCBS) Division of Financial Regulation (DFR) issues third-party administrator licenses for life and health insurance. However, TPAs who operate on behalf of self-insured employers are exempt from licensure requirements.

DCBS has received an increasing volume of complaints from consumers and health care providers related to the business activities of TPAs. Many of these complaints are directed towards entities currently exempt from the licensure requirement and therefore not subject to DCBS oversight. Also, there is ambiguity in the current statute regarding the extent to which an insurer is responsible for actions and possible statutory violations committed by a contracted TPA.

The current regulatory structure presents challenges to enforcing the state's Insurance Code with respect to transactions that involve TPAs. House Bill 2277 removes the exemption from licensure for a TPA who operates on

behalf of self-insured employers and clarifies that insurer is responsible for activities of TPAs that insurer has contracted with for plan administration

PRELIMINARY