

BILL ANALYSIS

Senate Research Center
81R6838 PMO-F

H.B. 1364
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The federal Health Insurance Portability and Accountability Act (HIPAA), among other provisions, provides for portability of health insurance coverage of health benefit plans by requiring health care plans to provide coverage for preexisting conditions as long as the employee applies for coverage within 63 days of termination of coverage by another qualifying health care plan. HIPAA allows nonfederal governmental plans to opt out of many of its provisions provided adequate notice is given to participants in the plan and upon notice to the appropriate federal agency. In 2005, the legislature passed a law clarifying that, at a minimum, school district employee health care plans must provide coverage for preexisting conditions pursuant to state statutes that mirror certain HIPAA provisions providing for coverage for preexisting conditions. At the time, the legislation did not include a reference to the state plan for public school employees administered by the Teacher Retirement System of Texas (TRS), known as TRS-ActiveCare, as TRS had not opted out of any federal HIPAA provisions. Since that time, the TRS has chosen to opt out of certain provisions of HIPAA, although it has not yet opted out of the provisions relating to coverage for preexisting conditions. As one of the goals of the state in establishing a group health care plan for school employees was to facilitate continuity of health care coverage for school employees, it is important to make sure that the state group health plan continues to provide for portability of coverage so that employees can safely move from a district providing coverage under a local plan to a district that participates in TRS-ActiveCare.

H.B. 1364 removes a provision excluding certain group health benefit coverages for school district employees from state HIPAA provisions for coverage of preexisting conditions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 22.004(m), Education Code, to provide that notwithstanding any other law, group health benefit coverage provided by or offered through a district to district employees under any law, rather than under any law other than Subsection (a) (relating to a district participating in a certain uniform group coverage program), is subject to the requirements of Sections 1501.102-1501.105 (relating to definitions, applicability, and exceptions relating to health insurance portability and availability), Insurance Code. Provides that this section applies to all group health benefit coverage provided by or offered through a district to district employees, including a standard health benefit plan issued under Chapter 1507 (Consumer Choice of Benefits Plans), Insurance Code, rather than under Article 3.80 (Texas Consumer Choice of Benefits Health Insurance Plan Act [*Repealed*]) or 20A.09N (relating to the choice of benefits plan [*Repealed*]) or Chapter 1507, Insurance Code.

SECTION 2. Effective date: September 1, 2009.