HCS SS SB 457 -- HEALTH CARE SERVICES

SPONSOR: Sater (Morris)

COMMITTEE ACTIONS: Voted "Do Pass" by the Standing Committee on Health Insurance by a vote of 9 to 0. Voted "Do Pass with HCS" by the Select Committee on Insurance by a vote of 8 to 1.

This bill changes the laws regarding health care services.

PRESCRIPTIVE AUTHORITY (Sections 195.070, 334.037, 334.104, and 334.747, RSMo)

The bill allows specified advanced practice registered nurses, physician assistants, and assistant physicians to prescribe Schedule II medications containing hydrocodone. Hydrocodone prescriptions are limited to a one five-day supply without refill.

OPINIONS BY STATE BOARDS AND COMMISSIONS (Section 324.023)

The bill allows any board or commission within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration to issue, at its discretion, oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by the board or commission issuing the guidance. Any opinion is for educational purposes, is in no way binding on the licensee, and cannot be used as the basis for any discipline against a licensee. A board or commission may not address topics relating to the qualifications, functions, or duties of any profession licensed by a different board or commission.

BOARD OF PHARMACY (Section 338.075)

The bill specifies that all licensees, registrants, and permit holders regulated by the Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration must report to the board any final adverse action taken by another licensing jurisdiction against any license, permit, or authorization held by the person or entity to practice or operate as a pharmacist, intern pharmacist, pharmacy technician, pharmacy, drug distributor, drug manufacturer, or drug outsourcing facility. All licensees, registrants, and permit holders must report any surrender of a license or authorization to practice or operate while under disciplinary investigation by another jurisdiction and any exclusion to participate in any government-funded health care program for fraud, abuse, or submission of any false claim, payment, or reimbursement request.

EMERGENCY SUPPLY OF MEDICATION (Section 338.200)

The bill specifies that only a licensed pharmacist can make the determination to dispense an emergency supply of medication without the authorization from the prescriber.

HEALTH MAINTENANCE ORGANIZATIONS (Section 354.415)

The bill allows a health maintenance organization to offer a health benefit plan with variable co-payments that exceed 50% of the total cost of the service except as specifically prohibited under Chapters 354 or 376.

BULLETINS AND NO-ACTION LETTERS (Sections 374.015 and 374.018)

The bill allows the Director of the Department of Insurance, Financial Institutions and Professional Registration to issue informal bulletins for the purpose educating the insurance industry and the general public about a regulatory topic or issue. The bulletins do not have the force or effect of law and must not be considered statements of general applicability that would require promulgation by rule. The department director may also issue a no-action letter stating the intention of the department to not take enforcement actions with respect to the requesting insurer based on the specific facts presented by the insurer and applicable law as of the date of the issuance of the letter. The letter must not be considered statements of general applicability that would require promulgation by rule. As long as there is no change in any material fact or law or the discovery of a material misrepresentation or omission made by the insurer, the department is estopped from bringing any enforcement action against the requesting insurer concerning the specific conduct that is the subject of the no-action letter.

WORKERS' COMPENSATION (Section 375.1605)

The bill requires all large deductible claims that are also covered claims to be turned over to the responsible guaranty association, unless otherwise agreed by the guaranty association. However, in the event that an insured pays a deductible claim pursuant to an agreement with a guaranty association, a receiver or guaranty association must not have any obligation to pay the claim or reimburse the insured.

The bill entitles guaranty associations to reimbursement from the insured for payment of deductible claims in the event that the insurer would have been entitled to the reimbursement. If the guaranty association is not reimbursed, it is entitled to assert a claim for the amount owed in the disciplinary proceeding. The

receiver is required to take all commercially reasonable actions to collect any reimbursements owed for deductible claims and bill the insured for the reimbursement. Insolvency of the insurer or its inability to perform any of its obligations under the policy must not be a defense to the insured's reimbursement obligation under the large deductible policy. Only in the case of gross negligence or an allegation of improper handling or payment of a deductible claim by the insurer must insolvency of the receiver or guaranty association be a defense to the insured's failure to reimburse the entity.

The bill requires a receiver to utilize collateral, when available, to secure the insured's obligations to fund or reimburse deductible claims or other secured obligations or other payment obligations. The bill specifies the procedure for satisfying claims with collateral.

MEDICATION SYNCHRONIZATION (Section 376.379)

The bill requires a health carrier or managed care plan offering a health benefit plan in this state that provides prescription drug coverage to offer medication synchronization services that allows for the alignment of refill dates for an enrollee's prescription drugs that are covered benefits. The health carrier or managed care plan must not charge an amount in excess of the otherwise applicable co-payment amount under the health benefit plan and must provide a full dispensing fee to the pharmacy that dispenses the prescription drug so long as the terms of the medication synchronization services are met.

PHARMACY BENEFIT MANAGERS (Section 376.388)

The bill requires each contract execution or renewal between a pharmacy benefit manager (PBM) and a pharmacy or pharmacy's contracting representative to include the sources utilized to determine maximum allowable cost and update the pricing information at least every seven days and maintain a procedure to eliminate products from the maximum allowable cost list of drugs or modify maximum allowable cost pricing at least every seven days if the drugs do not meet the standards and requirements specified in the bill in order to remain consistent with pricing changes in the marketplace.

A PBM must reimburse pharmacies for drugs subject to maximum allowable cost pricing which has been updated to reflect market pricing at least every seven days. A drug must not be placed on a maximum allowable cost list unless there are at least two therapeutically equivalent multi-source generic drugs or at least one generic drug available from only one manufacturer and is

generally available for purchase from national or regional wholesalers.

All contracts must include a process to internally appeal, investigate, and resolve disputes regarding maximum allowable cost pricing as specified in the bill. An appeal must be upheld if the pharmacy being reimbursed for the drug on the list was not reimbursed according to these provisions or the drug does not meet the requirements for being placed on the list.

INDIVIDUAL HEALTH INSURANCE COVERAGE (Section 376.791)

The bill exempts individual health insurance coverage from specified requirements regarding the printing order of certain policy provisions and provisions regarding third-party ownership.

PROPONENTS: Supporters say that the bill modifies provisions relating to licenses under the Board of Pharmacy; changes the laws regarding pharmacy benefits managers; and changes the laws regarding emergency medication distributions. If an individual possesses a license under the Board of Pharmacy, is working in another state, and has adverse action taken against him or her or he or she is denied participation in a federal program, the individual must report the adverse action or denial to the board. If the individual licensed under the board is required to surrender his or her license in another state, the individual must report the surrender to the board. The pharmacy benefits manager language in the bill has been an ongoing discussion for several years now and the interested parties are finally getting close to a compromise.

Testifying for the bill were Senator Sater; Express Scripts; Kim Grinston, Missouri Board of Pharmacy; Division of Professional Registration; CVS Health; and Missouri Pharmacy Association.

OPPONENTS: There was no opposition voiced to the committee.