

March 20, 2023

To: Chairman and Members  
Texas House Insurance Committee  
Subject: HB 2021

HB 2021 applies state-specific mandates to prescription drugs and devices that are currently covered under federal Employee Retirement Income Security Act of 1974 (ERISA) health insurance plans. As large employers and associations representing Texas' largest employers, we have serious concerns about any measure that erodes ERISA's protections and therefore respectfully oppose HB 2021.

The core purpose of ERISA is to create uniformity and continuity for employers managing benefits across multiple state lines. In the absence of ERISA, employers would be faced with either providing inequitable benefits or significantly reducing benefits due to the cost of complying with a patchwork system. Preservation of ERISA is paramount to our ability to provide uniform health insurance coverage to our employees, no matter where they live.

HB 2021 disrupts Texas business, leading to myriad unintended consequences, including:

- inequitable benefits to Texas employees, possibly including decreased benefits and higher premiums, deductibles, and out-of-pocket costs;
- increased complexity and administrative costs of compliance with a patchwork system;
- litigation costs; and
- making Texas less attractive as a place to do business for multi-state employers.

HB 2021 is a direct attempt to apply state law to self-insured ERISA plans and the benefits employers can offer to their employees. While the U.S. Supreme Court ruling in *Rutledge v. Pharmaceutical Care Management Association*, 141 S. Ct. 474 (2020) did address price setting under ERISA plans, **the Court specifically stated that state legislation is pre-empted when it interferes with plan design and administration.** HB 2021 goes beyond price setting and interferes with plan design and administration by imposing administrative requirements and mandating that self-funded ERISA plans provide specific benefits.

As always, we stand ready and willing to work with the Legislature to develop strong public policy that furthers the goals of a strong Texas economy, including protecting policies that improve access to affordable healthcare for Texas employees. We ask that you stand with the business community and preserve ERISA's protections.

