TITLE 1 ADMINISTRATION

PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354 MEDICAID HEALTH SERVICES

SUBCHAPTER F PHARMACY SERVICES

DIVISION 8 DRUG UTILIZATION REVIEW BOARD

§354.1941. Drug Utilization Review Board.

(a) The Drug Utilization Review Board (DUR Board) must:

(1) develop recommendations for preferred drug lists to be adopted by the Texas Health and Human Services Commission (HHSC) under Texas Government Code §531.072;

(2) suggest to HHSC restrictions or clinical prior authorizations on prescription drugs;

(3) recommend to HHSC educational interventions for Medicaid providers;

(4) review drug utilization across Medicaid; and

(5) perform other duties that may be specified by law and otherwise make recommendations to HHSC.

(b) DUR Board membership.

(1) Membership composition complies with Social Security Act §1927(g)(3) and Texas Government Code §531.0736.

(2) In accordance with Texas Government Code §531.0736, the DUR Board is appointed by the HHSC Executive Commissioner. To apply to be a member of the DUR Board, a person submits, prior to the posted deadline, a completed application and required documents in accordance with the application instructions posted on HHSC's website.

(c) DUR Board meetings.

(1) HHSC publishes notice of meetings of the DUR Board. Each notice includes the categories to be considered at the upcoming meeting, instructions concerning filing of written comments, and application to provide public testimony before the DUR Board. Testimony is provided in a public forum.

(2) The DUR Board will not discuss or disclose information deemed confidential under Texas Government Code §531.071 in a public session.

(d) The DUR Board or its designee must present a summary of any clinical efficacy and safety information or analyses regarding a drug under consideration for a preferred drug list that is provided to the DUR Board by a private entity that has contracted with HHSC to provide the information. The DUR Board or the DUR Board’s designee must provide the summary in electronic form before the public meeting at which consideration of the drug occurs. Confidential information described by Texas Government Code §531.071 must be omitted from the summary. The summary must be posted on HHSC's website.

(e) Subject to HHSC's approval, the DUR Board will develop by-laws governing the conduct of DUR Board meetings, including the receipt of public testimony and procedures by which it makes advisory recommendations. HHSC or its designee will publish these by-laws on HHSC's website.

§354.1942. Conflict of Interest Policy.

(a) Definitions. The following words or phrases have the meaning indicated for purposes of this section:

(1) Board member--A person who is appointed to the DUR Board.

(2) Conflict of interest--A situation that arises wherein a board member has a financial relationship, ownership or financial interest, or other interest where the member is in a position to derive a personal benefit from action or decisions made in their professional capacity, with a third party.

(3) DUR Board--Drug Utilization Review Board.

(4) Entity--Includes an individual, a corporation, organization, business trust, estate, trust, partnership, association, and any other legal entity that may have business come before the DUR Board or before the Medicaid Vendor Drug Program. The term also includes an affiliate or associate of such an entity.

(5) Family member or relative--An individual who is related within the third degree by consanguinity or within the second degree by affinity, as defined by the Government Code, Chapter 573, Subchapter B (concerning Relationships by Consanguinity or by Affinity).

(6) Financial relationship--A written or oral agreement between a board member and an entity that results in the payment of federally reportable income to the board member (i.e., income reported on IRS Form 1099 or Form W-2).

(7) Other interest--Involvement in the affairs of an entity that impairs or may be perceived as impairing a board member's independence of judgment regarding the board member's performance of duties for the DUR Board.

(8) Ownership or financial interest--An equity interest in an entity where a board member exercises control over the selection of investments and any other financial interest whose value cannot be readily determined through reference to public records.

(9) Third party--A pharmaceutical manufacturer or labeler with a product on the Texas Drug Code Index and any other entity the Texas Health and Human Services Commission (HHSC) has engaged to assist in developing the preferred drug list or in administering of the DUR Program.

(b) Policy.

(1) A board member may have a conflict of interest with DUR Board duties, if the board member or any family member or relative has:

(A) a financial relationship with an entity;

(B) an ownership or financial interest in a third party; or

(C) any other interest.

 (2) To avoid a conflict of interest, a board member must:

 (A) disclose any relationship described in paragraph (1) of this subsection as described in subsection (c) of this section; and

 (B) comply with any action the DUR Board or HHSC may require under subsection (d) of this section to mitigate the effect of any relationship disclosed.

(c) Disclosure.

(1) A board member of or person under consideration for appointment to the DUR Board must report any new or existing financial relationship, ownership or financial interest, or other interest that the board member or their family member or relative, holds or acquires during the board member's tenure on the DUR Board or that was held or acquired during the two-year period that immediately precedes the board member's tenure.

(2) A board member must report any relationships or interests described in paragraph (1) of this subsection within established timeframes to HHSC.

(d) Mitigation. If HHSC determines that a potential conflict of interest exists, the following actions are taken.

(1) HHSC determines whether the potential conflict will impair the board member's exercise of independent judgment.

(2) HHSC informs the board member and the DUR Board chair of its recommended action.

(3) In response to a recommendation from HHSC, the DUR Board may require:

(A) recusal of the board member; or

 (B) any other action HHSC determines necessary to avoid or mitigate a potential conflict of interest.