

March 27, 2023

To: Chairman and Members  
Texas House Insurance Committee

Subject: CSHB 2021

As TAB and others testified last week in the House Insurance Committee hearing, the core purpose of ERISA is to create uniformity and continuity for employers with self-funded plans, especially those 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.

The author's substitute and his statements regarding narrowing this bill's focus to bringing ERISA plans into only the provisions of HB1919 and HB1763, (passed last session) do nothing to improve the bill. Not only are these two of the costliest mandates related to drug benefits adopted in decades, the author's intent also re-enforces our argument that cherry picking mandates that Texas employers must comply with across multiple states will undoubtedly drive-up costs. This will increase both direct costs and administration costs and could erode the ability for many of us to continue to provide top tier benefits to our employees.

CSHB 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.** CSHB 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. The passage of CSHB 2021 would be detrimental to the overall economic health of Texas employers, and **we ask that you stand with the business community by opposing CSHB 2021.**

