

1-1 By: Oliverson, et al. (Senate Sponsor - Kolthorst) H.B. No. 18  
 1-2 (In the Senate - Received from the House April 19, 2021;  
 1-3 May 10, 2021, read first time and referred to Committee on Health &  
 1-4 Human Services; May 20, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 May 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 18 By: Hall

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to establishment of the prescription drug savings program  
 1-22 for certain uninsured individuals.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. SHORT TITLE. This Act shall be known as "Texas  
 1-25 Cares."

1-26 SECTION 2. PRESCRIPTION DRUG SAVINGS PROGRAM. Subtitle C,  
 1-27 Title 2, Health and Safety Code, is amended by adding Chapter 65 to  
 1-28 read as follows:

1-29 CHAPTER 65. PRESCRIPTION DRUG SAVINGS PROGRAM FOR CERTAIN  
 1-30 UNINSURED INDIVIDUALS

1-31 SUBCHAPTER A. GENERAL PROVISIONS

1-32 Sec. 65.001. DEFINITIONS. In this chapter:

1-33 (1) "Enrollee" means an individual enrolled in the  
 1-34 program.

1-35 (2) "Fund" means the trust fund established under  
 1-36 Section 65.101.

1-37 (3) "Pharmacy benefit manager" has the meaning  
 1-38 assigned by Section 4151.151, Insurance Code.

1-39 (4) "Prescription drug" has the meaning assigned by  
 1-40 Section 551.003, Occupations Code.

1-41 (5) "Program" means the prescription drug savings  
 1-42 program established under this chapter.

1-43 (6) "Uninsured individual" means an individual  
 1-44 without health benefit plan coverage for a prescription drug  
 1-45 benefit.

1-46 Sec. 65.002. CONSTRUCTION OF CHAPTER; PURPOSE. (a) This  
 1-47 chapter does not establish an entitlement to assistance in  
 1-48 obtaining benefits for uninsured individuals.

1-49 (b) The purpose of this chapter is to establish a program to  
 1-50 provide uninsured individuals access to prescription drug benefits  
 1-51 using money from the fund to pay an amount equal to the value of a  
 1-52 prescription drug rebate at the point of sale and returning that  
 1-53 rebate amount to the fund to ensure the amounts credited to the fund  
 1-54 equal the amounts paid from the fund.

1-55 (c) This chapter does not expand the Medicaid program.

1-56 Sec. 65.003. RULES. The executive commissioner shall adopt  
 1-57 rules as necessary to implement this chapter.

1-58 SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION  
 1-59 DRUG SAVINGS PROGRAM

1-60 Sec. 65.051. ESTABLISHMENT OF PROGRAM. (a) The commission

2-1 shall develop and design a prescription drug savings program that  
 2-2 partners with a pharmacy benefit manager to offer prescription  
 2-3 drugs at a discounted rate to uninsured individuals.

2-4 (b) In developing and implementing the program, the  
 2-5 commission shall ensure the program benefits do not include  
 2-6 prescription drugs used for the elective termination of a  
 2-7 pregnancy.

2-8 (c) The executive commissioner shall ensure the program is  
 2-9 designed to provide the greatest possible value to uninsured  
 2-10 individuals served by the program, while considering the adequacy  
 2-11 of the prescription drug formulary, net costs of the drugs to  
 2-12 enrollees, cost to the state, and other important factors  
 2-13 determined by the commission.

2-14 Sec. 65.052. GENERAL POWERS AND DUTIES OF COMMISSION  
 2-15 RELATED TO PROGRAM. (a) The commission shall oversee the  
 2-16 implementation of the program and coordinate the activities of each  
 2-17 state agency involved in that implementation.

2-18 (b) The commission shall design the program to be cost  
 2-19 neutral by collecting prescription drug rebates after using money  
 2-20 in the fund in amounts equal to the rebate amounts to purchase  
 2-21 prescription drugs.

2-22 (c) The commission shall develop procedures for accepting  
 2-23 applications for program enrollment, including a process to:

2-24 (1) determine eligibility, screening, and enrollment  
 2-25 procedures that allow applicants to self attest to the extent  
 2-26 authorized by federal law; and

2-27 (2) resolve disputes related to eligibility  
 2-28 determinations.

2-29 (d) The commission shall publish on an Internet website all  
 2-30 average consumer costs for each prescription drug available through  
 2-31 the program.

2-32 (e) The commission and the contracted pharmacy benefit  
 2-33 manager shall integrate manufacturer and other third-party patient  
 2-34 assistance programs into the program to the extent feasible. A  
 2-35 manufacturer or other third party may decline to link the  
 2-36 manufacturer's or third party's patient assistance program to the  
 2-37 program. The commission shall give preference to integrating  
 2-38 patient assistance programs by listing information on those patient  
 2-39 assistance programs in a central location on the Internet website  
 2-40 described by Subsection (d) that directs patients to those patient  
 2-41 assistance programs as appropriate.

2-42 (f) The commission shall ensure the program has access to an  
 2-43 adequate pharmacy network and give preference to conducting the  
 2-44 program using a state pharmaceutical assistance program.

2-45 (g) The commission is not required to enter into stand-alone  
 2-46 contracts under this chapter. The commission may add the program,  
 2-47 wholly or partly, to existing contracts to increase efficiency.

2-48 Sec. 65.053. PHARMACY BENEFIT MANAGER CONTRACT,  
 2-49 MONITORING, AND REPORTING REQUIREMENTS. (a) The commission shall  
 2-50 contract with a pharmacy benefit manager to provide discounted  
 2-51 prescription drugs to enrollees under the program.

2-52 (b) The commission shall monitor through reporting or other  
 2-53 methods the contracted pharmacy benefit manager to ensure  
 2-54 performance under the contract and quality delivery of services.

2-55 (c) The contracted pharmacy benefit manager shall report to  
 2-56 the commission on the commission's request information related to  
 2-57 the program, including information on rebate amounts, prescription  
 2-58 drug rates contracted with pharmacies, administrative costs, and  
 2-59 out-of-pocket costs paid by enrollees at the point of sale of the  
 2-60 prescription drugs.

2-61 Sec. 65.054. CONTRACT FUNCTIONS. (a) The commission may  
 2-62 contract with a third-party administrator or other entity to  
 2-63 perform any or all program functions for the commission under this  
 2-64 chapter.

2-65 (b) A third-party administrator or other entity may perform  
 2-66 tasks under a contract entered into under Subsection (a) that would  
 2-67 otherwise be performed by the commission.

2-68 Sec. 65.055. COMMUNITY OUTREACH CAMPAIGN. The commission  
 2-69 shall conduct or contract to conduct a community outreach and

3-1 education campaign in the form and manner determined by the  
 3-2 commission to provide information on the program's availability to  
 3-3 eligible individuals.

3-4 SUBCHAPTER C. TRUST FUND; PROGRAM SUSPENSION

3-5 Sec. 65.101. ESTABLISHMENT OF FUND. (a) A trust fund is  
 3-6 established outside the state treasury for the purposes of this  
 3-7 chapter.

3-8 (b) The fund consists of:

3-9 (1) gifts, grants, and donations received by this  
 3-10 state for the purposes of the fund;

3-11 (2) legislative appropriations of money for the  
 3-12 purposes of this chapter;

3-13 (3) federal money available to this state that by law  
 3-14 may be used for the purposes of this chapter; and

3-15 (4) interest, dividends, and other income of the fund.

3-16 (c) The commission shall administer the fund as trustee for  
 3-17 the benefit of the program established by this chapter.

3-18 (d) Money in the fund may be used only to administer the  
 3-19 program and provide program services.

3-20 (e) The commission shall ensure money spent from the fund to  
 3-21 assist enrollees in purchasing prescription drugs is cost neutral  
 3-22 after collecting the prescription drug rebates under the program.

3-23 (f) The commission may solicit and accept gifts, grants, and  
 3-24 donations for the fund.

3-25 Sec. 65.102. SUFFICIENT FUNDING REQUIRED. Notwithstanding  
 3-26 any other provision of this chapter, the commission is not required  
 3-27 to implement the program unless money is provided and by law made  
 3-28 available for deposit to the credit of the fund.

3-29 Sec. 65.103. SUSPENSION OF PROGRAM. On the fourth  
 3-30 anniversary of the date the program is established, the commission  
 3-31 shall suspend the program and seek legislative approval to continue  
 3-32 the program unless the ongoing costs of administering the program  
 3-33 are fully funded through enrollee cost sharing.

3-34 SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

3-35 Sec. 65.151. ELIGIBILITY CRITERIA. (a) Except as provided  
 3-36 by Subsection (b), an individual is eligible for benefits under the  
 3-37 program if the individual is:

3-38 (1) a resident of this state;

3-39 (2) a citizen or lawful permanent resident of the  
 3-40 United States; and

3-41 (3) uninsured, as determined by the commission.

3-42 (b) If the commission determines necessary, the commission  
 3-43 may consider an applicant's financial vulnerability as an  
 3-44 additional factor for determining program eligibility.

3-45 Sec. 65.152. COST SHARING. (a) To the extent necessary,  
 3-46 the commission shall require enrollees to share the cost of the  
 3-47 program, including requiring enrollees to pay a copayment at the  
 3-48 point of sale of a prescription drug.

3-49 (b) The commission must:

3-50 (1) allow an enrollee to pay all or part of the  
 3-51 enrollee's share from any source the enrollee selects; and

3-52 (2) accept another assistance program if that  
 3-53 assistance program wholly or partly covers the enrollee share of  
 3-54 the prescription drug cost.

3-55 (c) The commission shall require an enrollee to pay a  
 3-56 copayment to compensate the pharmacy, pharmacy benefit manager, and  
 3-57 commission for the costs of administering the program in accordance  
 3-58 with Subsection (d) and under the methodology determined by the  
 3-59 commission.

3-60 (d) Enrollees shall pay the costs of ongoing administration  
 3-61 of the program through an additional charge at the point of sale of  
 3-62 an eligible prescription drug only if the total number of enrollees  
 3-63 in the program allows for the additional charge to be an amount not  
 3-64 to exceed the lesser of:

3-65 (1) an amount similar to the amount charged for a  
 3-66 prescription drug in other state pharmaceutical assistance  
 3-67 programs administered by the commission; or

3-68 (2) 10 percent of the total amount charged at the point  
 3-69 of sale for the prescription drug.

## SUBCHAPTER E. OPERATION OF PROGRAM

4-1                    Sec. 65.201. PROGRAM BENEFITS. The commission must approve  
 4-2                    program benefits offered under this chapter. The commission shall  
 4-3                    ensure the benefits comply with all applicable federal and state  
 4-4                    laws, rules, and regulations.

4-5                    Sec. 65.202. REPORTING. (a) A third-party administrator,  
 4-6                    pharmacy benefit manager, or any other entity the commission  
 4-7                    contracts with under Section 65.054 shall report to the commission  
 4-8                    in the form and manner prescribed by the commission on the benefits  
 4-9                    and services provided under the program.

4-10                   (b) The commission shall establish a procedure to monitor  
 4-11                   the provision of benefits and services under this chapter.

4-12                    Sec. 65.203. FRAUD PREVENTION. The executive commissioner  
 4-13                    by rule shall develop and implement fraud prevention and detection  
 4-14                    for pharmacy benefit managers, contracted third parties, and other  
 4-15                    entities involved in the program.

4-16                    Sec. 65.204. ANNUAL PROGRAM REPORTS. Not later than  
 4-17                    December 1 of each year, the commission shall provide a written  
 4-18                    report to the governor, lieutenant governor, speaker of the house  
 4-19                    of representatives, and standing committees of the legislature with  
 4-20                    primary jurisdiction over the program. The report must include:

4-21                    (1) a line-item list of all program administrative  
 4-22                    costs incurred by the commission;

4-23                    (2) the amount of the pharmacy benefit manager and  
 4-24                    third-party administrator fees;

4-25                    (3) the aggregate amounts of rebates anticipated and  
 4-26                    received for the program; and

4-27                    (4) other program expenditures as the commission  
 4-28                    determines appropriate.

4-29                    SECTION 3. INSULIN STUDY. (a) In this section,  
 4-30                    "commission" means the Health and Human Services Commission.

4-31                    (b) The commission shall conduct a study on the development  
 4-32                    and implementation of the prescription drug savings program  
 4-33                    established by Chapter 65, Health and Safety Code, as added by this  
 4-34                    Act, in providing post-rebate insulin to enrollees. The commission  
 4-35                    shall determine the effectiveness of the program in providing  
 4-36                    insulin-related services to uninsured individuals in this state and  
 4-37                    any legislative recommendations for improvements to the program.

4-38                    (c) Not later than February 14, 2023, the commission shall  
 4-39                    provide a written report of the results of the study conducted under  
 4-40                    Subsection (b) of this section to the governor, lieutenant  
 4-41                    governor, speaker of the house of representatives, and members of  
 4-42                    the standing committees of the legislature with primary  
 4-43                    jurisdiction over the commission. The study must include at least  
 4-44                    six months of information on use by and cost to enrollees for  
 4-45                    prescription insulin.

4-46                    SECTION 4. GENERAL STUDY. (a) In this section,  
 4-47                    "commission" means the Health and Human Services Commission.

4-48                    (b) The commission shall conduct a study on the development  
 4-49                    and implementation of the prescription drug savings program  
 4-50                    established by Chapter 65, Health and Safety Code, as added by this  
 4-51                    Act, in providing to enrollees all of the post-rebate formulary of  
 4-52                    prescription drugs. The commission shall determine the  
 4-53                    effectiveness of the program in providing prescription  
 4-54                    drug-related services to uninsured individuals in this state and  
 4-55                    any legislative recommendations for improvements to the program.

4-56                    (c) Not later than February 14, 2025, the commission shall  
 4-57                    provide a written report on the results of the study conducted under  
 4-58                    Subsection (b) of this section to the governor, lieutenant  
 4-59                    governor, speaker of the house of representatives, and standing  
 4-60                    committees of the legislature with primary jurisdiction over the  
 4-61                    commission. The study must include at least one year of information  
 4-62                    on use by and cost to enrollees for all of the formulary of  
 4-63                    prescription drugs.

4-64                    SECTION 5. TRANSITION. (a) The Health and Human Services  
 4-65                    Commission is not required to submit the initial report under  
 4-66                    Section 65.204, Health and Safety Code, as added by this Act, until  
 4-67                    December 1, 2022.

4-68                    (b) The Health and Human Services Commission is required to  
 4-69

5-1 implement a provision of this Act only if the legislature  
5-2 appropriates money specifically for that purpose. If the  
5-3 legislature does not appropriate money specifically for that  
5-4 purpose, the Health and Human Services Commission may, but is not  
5-5 required to, implement a provision of this Act using other  
5-6 appropriations available for that purpose.

5-7 SECTION 6. RULES. As soon as practicable after the  
5-8 effective date of this Act, the executive commissioner of the  
5-9 Health and Human Services Commission and any other state agency  
5-10 designated by the executive commissioner shall adopt rules  
5-11 necessary to implement Chapter 65, Health and Safety Code, as added  
5-12 by this Act.

5-13 SECTION 7. EFFECTIVE DATE. This Act takes effect September  
5-14 1, 2021.

5-15

\* \* \* \* \*