

By: Hupp

H.B. No. 2674

A BILL TO BE ENTITLED

AN ACT

relating to prescription drug insurance benefits provided through or by the Employees Retirement System of Texas or the Teacher Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 8, Insurance Code, is amended by adding Chapter 1565 to read as follows:

CHAPTER 1565. DRUG FORMULARY FOR USE BY CERTAIN
STATE AGENCIES

Sec. 1565.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Drug formulary" means a list of drugs preferred for use and eligible for coverage under a health benefit plan.

(3) "Executive commissioner" means the executive commissioner of the commission.

Sec. 1565.002. DRUG FORMULARIES. (a) The commission shall adopt drug formularies for prescription drugs purchased in connection with health benefit plan coverage provided under Chapter 1551, 1575, or 1579.

(b) In making a decision regarding the placement of a drug on a drug formulary, the commission shall consider:

(1) the recommendations of the Pharmaceutical and Therapeutics Committee established under Section 1565.004;

- (2) the clinical efficacy of the drug;
- (3) the safety of the drug; and
- (4) the cost-effectiveness of the drug.

(c) The commission shall:

(1) distribute the formularies by posting the formularies on the commission's Internet website; and

(2) mail copies of the formularies to:

(A) the executive directors of the Employees Retirement System of Texas and the Teacher Retirement System of Texas; and

(B) any health care provider on the request of that provider.

Sec. 1565.003. PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS REQUIRED. (a) The commission shall require prior authorization for reimbursement for any drug that is not included in the applicable drug formulary adopted under Section 1565.002. The commission shall require that the prior authorization be obtained by the prescribing physician or prescribing practitioner.

(b) Until the commission has completed a study evaluating the impact of a requirement for prior authorization on recipients of a drug, the commission may not require prior authorization for a drug that is used to treat patients with an illness that:

- (1) is life-threatening;
- (2) is chronic; and
- (3) requires complex medical management strategies.

(c) Not later than the 30th day before the date on which a

1 prior authorization requirement is effective, the commission shall
2 post on the commission's Internet website for covered persons and
3 health care providers:

4 (1) a notification of the effective date of the
5 requirement; and

6 (2) a detailed description of the procedures to be
7 used to obtain prior authorization.

8 (d) The commission may not require prior authorization for
9 reimbursement for a prescription drug that is prescribed to a
10 covered person before the effective date of the prior authorization
11 requirement for the drug before the earlier of:

12 (1) the date the covered person has exhausted all of
13 the prescription, including any authorized refills; or

14 (2) the expiration of a period prescribed by the
15 commission.

16 (e) The commission shall ensure that the prior
17 authorization requirements are implemented in a manner that
18 minimizes the cost to the state and the administrative burden on
19 health care providers.

20 Sec. 1565.004. PHARMACEUTICAL AND THERAPEUTICS COMMITTEE.

21 (a) The Pharmaceutical and Therapeutics Committee is established
22 to develop recommendations for drug formularies adopted by the
23 commission under Section 1565.002.

24 (b) The committee consists of the following members
25 appointed by the lieutenant governor:

26 (1) five physicians licensed under Subtitle B, Title
27 3, Occupations Code, two of whom must be doctors of osteopathic

1 medicine;

2 (2) five pharmacists licensed under Subtitle J, Title
3 3, Occupations Code, one of whom must be a clinical pharmacist and
4 one of whom must have expertise in pharmaco-economics;

5 (3) one representative of the Employees Retirement
6 System of Texas; and

7 (4) one representative of the Teacher Retirement
8 System of Texas.

9 (c) In making appointments to the committee, the lieutenant
10 governor shall ensure that the committee includes physicians and
11 pharmacists who:

12 (1) represent different specialties;

13 (2) have experience in developing or practicing under
14 drug formularies; and

15 (3) do not have contractual relationships, ownership
16 interests, or other conflicts of interest with a pharmacy benefit
17 manager under contract with or employed by the Employees Retirement
18 System of Texas or the Teacher Retirement System of Texas.

19 (d) A member of the committee is appointed for a two-year
20 term and may serve more than one term.

21 (e) The lieutenant governor shall appoint a physician to be
22 the presiding officer of the committee. The presiding officer
23 serves at the pleasure of the lieutenant governor.

24 (f) The committee shall meet at least quarterly and at other
25 times at the call of the presiding officer or a majority of the
26 committee members.

27 (f-1) Notwithstanding Subsection (f), the committee shall

1 meet at least monthly during the six-month period following
2 establishment of the committee to enable the committee to develop
3 recommendations for the initial drug formularies. This subsection
4 expires September 1, 2007.

5 (g) A member of the committee may not receive compensation
6 for serving on the committee but is entitled to reimbursement for
7 reasonable and necessary travel expenses incurred by the member
8 while conducting the business of the committee, as provided by the
9 General Appropriations Act.

10 (h) In developing the committee's recommendations for the
11 drug formularies, the committee shall consider the clinical
12 efficacy, safety, and cost-effectiveness of a drug to be placed on a
13 formulary.

14 (i) The executive commissioner shall adopt rules governing
15 the operation of the committee, including rules governing the
16 procedures used by the committee to provide notice of a meeting.
17 The committee shall comply with the rules adopted under this
18 subsection.

19 (j) To the extent feasible, the committee shall review all
20 drug classes included in the drug formularies adopted under Section
21 1565.002 at least once every 12 months and may recommend inclusions
22 to and exclusions from the formularies to ensure that the
23 formularies provide for cost-effective, medically appropriate drug
24 therapies for covered persons.

25 (k) The commission shall provide administrative support and
26 resources as necessary for the committee to perform the committee's
27 duties.

1 (1) Chapter 2110, Government Code, does not apply to the
2 committee.

3 Sec. 1565.005. RULES. The executive commissioner shall
4 adopt rules as necessary to implement this chapter.

5 SECTION 2. Section 1551.218, Insurance Code, is amended to
6 read as follows:

7 Sec. 1551.218. USE OF DRUG FORMULARIES; PRIOR AUTHORIZATION
8 REQUIRED FOR CERTAIN DRUGS. The board of trustees by rule shall
9 require a ~~[(a) In this section, "drug formulary" means a list of~~
10 ~~drugs preferred for use and eligible for coverage under a health~~
11 ~~benefit plan.~~

12 ~~[(b) A] health benefit plan provided under this chapter to:~~
13 (1) use only the ~~[that uses a]~~ drug formularies
14 adopted by the Health and Human Services Commission under Chapter
15 1565 ~~[formulary]~~ in providing a prescription drug benefit; and

16 (2) follow the ~~[must require]~~ prior authorization
17 requirements adopted by the Health and Human Services Commission as
18 part of those formularies ~~[for coverage of the following categories~~
19 ~~of prescribed drugs if the specific drug prescribed is not included~~
20 ~~in the formulary.~~

21 ~~[(1) a gastrointestinal drug,~~
22 ~~[(2) a cholesterol-lowering drug,~~
23 ~~[(3) an anti-inflammatory drug,~~
24 ~~[(4) an antihistamine drug, and~~
25 ~~[(5) an antidepressant drug.~~

26 ~~[(c) Every six months the board of trustees shall submit to~~
27 ~~the comptroller and Legislative Budget Board a report regarding any~~

1 ~~cost savings achieved in the group benefits program through~~
2 ~~implementation of the prior authorization requirement of this~~
3 ~~section. A report must cover the previous six-month period].~~

4 SECTION 3. Subchapter E, Chapter 1551, Insurance Code, is
5 amended by adding Section 1551.2195 to read as follows:

6 Sec. 1551.2195. RESTRICTIONS ON MAIL ORDER PRESCRIPTION
7 PLANS. (a) In this section, "pharmacy benefit manager" has the
8 meaning assigned by Section 4151.151.

9 (b) A pharmacy benefit manager who administers pharmacy
10 benefits under a coverage plan under this chapter may not refer a
11 participant in the group benefits program to a mail order
12 prescription plan that is owned by or affiliated with the pharmacy
13 benefit manager or from which the pharmacy benefit manager receives
14 incentives, bonuses, or other compensation.

15 (c) A pharmacy benefit manager who violates Subsection (b)
16 is subject to sanctions as provided by Chapter 82.

17 SECTION 4. Subchapter D, Chapter 1575, Insurance Code, is
18 amended by adding Section 1575.169 to read as follows:

19 Sec. 1575.169. RESTRICTIONS ON MAIL ORDER PRESCRIPTION
20 PLANS. (a) In this section, "pharmacy benefit manager" has the
21 meaning assigned by Section 4151.151.

22 (b) A pharmacy benefit manager who administers pharmacy
23 benefits under a health benefit plan under this chapter may not
24 refer a participant in the group program to a mail order
25 prescription plan that is owned by or affiliated with the pharmacy
26 benefit manager or from which the pharmacy benefit manager receives
27 incentives, bonuses, or other compensation.

1 (c) A pharmacy benefit manager who violates Subsection (b)
2 is subject to sanctions as provided by Chapter 82.

3 SECTION 5. Section 1575.170, Insurance Code, is amended to
4 read as follows:

5 Sec. 1575.170. USE OF DRUG FORMULARIES; PRIOR AUTHORIZATION
6 REQUIRED FOR CERTAIN DRUGS. The trustee by rule shall require a
7 ~~[(a) In this section, "drug formulary" means a list of drugs~~
8 ~~preferred for use and eligible for coverage under a health benefit~~
9 ~~plan.~~

10 ~~[(b) A] health benefit plan provided under this chapter to:~~
11 (1) use only the [that uses a] drug formularies
12 adopted by the Health and Human Services Commission under Chapter
13 1565 [formulary] in providing a prescription drug benefit; and

14 (2) follow the [must require] prior authorization
15 requirements adopted by the Health and Human Services Commission as
16 part of those formularies [for coverage of the following categories
17 ~~of prescribed drugs if the specific drug prescribed is not included~~
18 ~~in the formulary.~~

19 ~~[(1) a gastrointestinal drug,~~

20 ~~[(2) a cholesterol-lowering drug,~~

21 ~~[(3) an anti-inflammatory drug,~~

22 ~~[(4) an antihistamine, and~~

23 ~~[(5) an antidepressant drug.~~

24 ~~[(c) Every six months the board of trustees shall submit to~~
25 ~~the comptroller and Legislative Budget Board a report regarding any~~
26 ~~cost savings achieved in the group program through implementation~~
27 ~~of the prior authorization requirement of this section. A report~~

1 ~~must cover the previous six-month period]~~.

2 SECTION 6. Subchapter C, Chapter 1579, Insurance Code, is
3 amended by adding Sections 1579.106 and 1579.107 to read as
4 follows:

5 Sec. 1579.106. USE OF DRUG FORMULARIES; PRIOR AUTHORIZATION
6 REQUIRED FOR CERTAIN DRUGS. The trustee by rule shall require a
7 health coverage plan provided under this chapter to:

8 (1) use only the drug formularies adopted by the
9 Health and Human Services Commission under Chapter 1565 in
10 providing a prescription drug benefit; and

11 (2) follow the prior authorization requirements
12 adopted by the Health and Human Services Commission as part of those
13 formularies.

14 Sec. 1579.107. RESTRICTIONS ON MAIL ORDER PRESCRIPTION
15 PLANS. (a) In this section, "pharmacy benefit manager" has the
16 meaning assigned by Section 4151.151.

17 (b) A pharmacy benefit manager who administers pharmacy
18 benefits under a coverage plan under this chapter may not refer a
19 participant in the program to a mail order prescription plan that is
20 owned by or affiliated with the pharmacy benefit manager or from
21 which the pharmacy benefit manager receives incentives, bonuses, or
22 other compensation.

23 (c) A pharmacy benefit manager who violates Subsection (b)
24 is subject to sanctions as provided by Chapter 82.

25 SECTION 7. (a) The Health and Human Services Commission
26 shall adopt the drug formularies required under Chapter 1565,
27 Insurance Code, as added by this Act, not later than June 1, 2006.

1 (b) The lieutenant governor shall appoint the members of the
2 Pharmaceutical and Therapeutics Committee established under
3 Chapter 1565, Insurance Code, as added by this Act, not later than
4 the 61st day after the effective date of this Act.

5 (c) Sections 1551.2195, 1575.169, and 1579.107, Insurance
6 Code, as added by this Act, apply to health benefit plans or health
7 coverage plans provided under Chapters 1551, 1575, and 1579,
8 Insurance Code, beginning with the 2005-2006 plan year.

9 (d) Sections 1551.218 and 1575.170, Insurance Code, as
10 amended by this Act, and Section 1579.106, Insurance Code, as added
11 by this Act, apply to health benefit plans or health coverage plans
12 provided under Chapters 1551, 1575, and 1579, Insurance Code,
13 beginning with the 2006-2007 plan year.

14 SECTION 8. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2005.