

By: Van de Putte

S.B. No. 749

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain pharmacy benefit managers;  
providing administrative and criminal penalties.

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

SECTION 1. Subtitle D, Title 13, Insurance Code, is amended  
by adding Chapter 4154 to read as follows:

CHAPTER 4154. PHARMACY BENEFIT MANAGERS FOR STATE-FUNDED PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4154.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas State Board of Pharmacy.

(2) "Claims processing service" means an administrative service performed in connection with the processing and adjudication of a claim relating to pharmaceutical services, including making payments to pharmacists and pharmacies.

(3) "Common controlling interest" means that a controlling interest in two persons is held by the same person.

(4) "Controlling interest" means that a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing 50 percent or more of the voting interests of another person.

(5) "Labor union" has the meaning assigned by Section 101.051, Labor Code.

(6) "Maintenance drug" means a drug:

(A) prescribed by a health care practitioner who

1 is licensed to prescribe drugs; and

2 (B) used to treat a medical condition for a  
3 period greater than 30 days.

4 (7) "Multi-source drug" means a drug that is stocked  
5 and available from at least three suppliers.

6 (8) "Other prescription drug or device service" means  
7 a service, other than a claims processing service, that is provided  
8 directly or indirectly by a pharmacy benefit manager, whether in  
9 connection with or separate from claims processing services,  
10 including:

11 (A) negotiating a rebate, discount, other  
12 financial incentive, or other arrangement with a drug company;

13 (B) disbursing or distributing a rebate;

14 (C) managing or participating in an incentive  
15 program or arrangement for the services of a pharmacist;

16 (D) negotiating or entering into a contractual  
17 arrangement with a pharmacist, a pharmacy, or both;

18 (E) developing drug formularies; and

19 (F) advertising or promoting claims processing  
20 services or other prescription drug or device services.

21 (9) "Person" means an individual, corporation,  
22 organization, trust, partnership, or other legal entity.

23 (10) "Pharmacist" has the meaning assigned by Section  
24 551.003(28), Occupations Code.

25 (11) "Pharmacist's service" means a service that is  
26 provided by a pharmacist, including drug therapy or another patient  
27 care service, as defined by board rules, that is intended to achieve

1 outcomes related to:

2 (A) curing or preventing a disease;

3 (B) eliminating or reducing a patient's  
4 symptoms; or

5 (C) arresting or slowing a disease process.

6 (12) "Pharmacy" has the meaning assigned by Section  
7 551.003(31), Occupations Code.

8 (13) "Pharmacy benefit manager" means a person, and  
9 any wholly or partially owned or controlled subsidiary of the  
10 person, that provides claims processing services, other  
11 prescription drug or device services, or both services. The term  
12 does not include:

13 (A) a health care facility licensed in this  
14 state;

15 (B) a health care practitioner licensed in this  
16 state;

17 (C) a pharmacy licensed in this state;

18 (D) an insurer authorized to engage in the  
19 business of insurance in this state;

20 (E) a health maintenance organization that holds  
21 a certificate of authority under Chapter 843;

22 (F) a labor union; or

23 (G) a consultant who only provides advice as to  
24 the selection or performance of a pharmacy benefit manager.

25 (14) "Single source drug" means a drug other than a  
26 multi-source drug.

27 (15) "State-funded health care program" means a

1 program operated by the state to provide health care benefits or  
2 services. The term includes:

3 (A) the medical assistance program under Chapter  
4 32, Human Resources Code;

5 (B) the Medicaid managed care program under  
6 Chapter 533, Government Code;

7 (C) the state child health plan under Chapter 62,  
8 Health and Safety Code; and

9 (D) a health benefit plan operated under Chapter  
10 1551, 1575, 1579, or 1601.

11 (16) "Usual and customary price" means the price that  
12 a pharmacist or pharmacy would charge a patient paying cash for the  
13 same services provided on the same date to another patient, other  
14 than a patient whose reimbursement rates are set by contract.

15 Sec. 4154.002. RULES. The commissioner shall adopt rules  
16 and standards as necessary to implement this chapter.

17 Sec. 4154.003. APPLICABILITY OF CHAPTER; APPLICABILITY OF  
18 OTHER PROVISIONS OF CODE. (a) This chapter applies only to a  
19 pharmacy benefit manager that provides to a state-funded health  
20 care program claims processing services, other prescription drug or  
21 device services, or both services.

22 (b) A pharmacy benefit manager subject to this chapter is  
23 also subject to Section 823.457, Subchapter H of Chapter 101,  
24 Chapter 541, Subchapter A of Chapter 542, and Chapter 804.

25 [Sections 4154.004-4154.050 reserved for expansion]

26 SUBCHAPTER B. CERTIFICATE OF AUTHORITY

27 Sec. 4154.051. CERTIFICATE OF AUTHORITY REQUIRED. (a) A

1 person may not act as or represent that the person is a pharmacy  
2 benefit manager for a state-funded health care program in this  
3 state unless the person is covered by and is engaging in business  
4 under a certificate of authority issued by the commissioner under  
5 this chapter.

6 (b) A person that holds a certificate of authority under  
7 this chapter is not also required to hold a certificate of authority  
8 as an administrator under Chapter 4151 to act as a pharmacy benefit  
9 manager in this state, but is required to comply with Subchapter D,  
10 Chapter 4151.

11 Sec. 4154.052. APPLICATION REQUIREMENTS. (a) An applicant  
12 for a certificate of authority under this chapter shall submit an  
13 application to the department in the manner prescribed by the  
14 commissioner.

15 (b) An application under this chapter must:

16 (1) include the information required in an application  
17 made under Section 4151.052 and other information as required by  
18 the commissioner; and

19 (2) be accompanied by a \$300 application fee.

20 Sec. 4154.053. FIDELITY BOND REQUIRED. (a) If the  
21 commissioner approves an application under Section 4154.052 for a  
22 certificate of authority, before the commissioner issues the  
23 certificate of authority, the applicant must:

24 (1) obtain and maintain a fidelity bond that complies  
25 with this section; and

26 (2) submit to the commissioner proof that the  
27 applicant has obtained the fidelity bond.

1       (b) The fidelity bond must protect against an act of fraud  
2 or dishonesty by the applicant in exercising the applicant's powers  
3 and duties as a pharmacy benefit manager for a state-funded health  
4 care program.

5       (c) The fidelity bond must be equal to at least 10 percent of  
6 the amount of money handled by the pharmacy benefit manager during  
7 the preceding year or, if no money was handled during the preceding  
8 year, 10 percent of the amount of money reasonably estimated to be  
9 handled by the pharmacy benefit manager for a state-funded health  
10 care program during the calendar year in which the license is  
11 issued.

12       (d) For purposes of this section, the amount of money  
13 handled by a person in the person's capacity as pharmacy benefit  
14 manager is the greater of the total amount of premiums and  
15 contributions received by the pharmacy benefit manager or the total  
16 amount of benefits paid by the pharmacy benefit manager in all  
17 jurisdictions in which the person acts as a pharmacy benefit  
18 manager.

19       (e) Unless the pharmacy benefit manager and an insurer,  
20 health maintenance organization, or state agency administering a  
21 state-funded health care program agree otherwise in writing, a  
22 pharmacy benefit manager subject to this chapter is required to  
23 obtain and maintain only one fidelity bond for all of the pharmacy  
24 benefit manager's activities as a pharmacy benefit manager in this  
25 state for a state-funded health care program.

26       Sec. 4154.054. ISSUANCE OF CERTIFICATE; DURATION OF  
27 CERTIFICATE; RENEWAL. (a) The commissioner shall issue a

1 certificate of authority to an applicant that complies with this  
2 chapter.

3 (b) A pharmacy benefit manager for a state-funded health  
4 care program is required to hold only one certificate of authority  
5 issued under this chapter.

6 (c) A certificate of authority issued under this chapter is  
7 valid for two years from the date of issuance, and may be renewed on  
8 submission of a renewal application to the department accompanied  
9 by a \$300 renewal fee.

10 [Sections 4154.055-4154.100 reserved for expansion]

11 SUBCHAPTER C. DEPARTMENT REGULATION OF PHARMACY BENEFIT MANAGERS

12 Sec. 4154.101. EXAMINATION OF PHARMACY BENEFIT MANAGER.

13 (a) The commissioner may examine a pharmacy benefit manager with  
14 regard to the manager's business in this state for a state-funded  
15 health care program.

16 (b) An examination under this section must include a review  
17 of:

18 (1) each existing written agreement between the  
19 pharmacy benefit manager and an insurer, health maintenance  
20 organization, or state agency that relates to the operation of a  
21 state-funded health care program; and

22 (2) the pharmacy benefit manager's financial  
23 statements.

24 (c) The commissioner may also require an on-site evaluation  
25 of the pharmacy benefit manager's personnel and facilities and any  
26 books and records of the pharmacy benefit manager relating to the  
27 transaction of business that relates to the operation of a

1 state-funded health care program and the financial condition of the  
2 pharmacy benefit manager. Before an examiner enters the property  
3 of the pharmacy benefit manager, the examiner must notify the  
4 pharmacy benefit manager of the date and estimated time of the  
5 examination in the manner prescribed by commissioner rule. The  
6 examiner shall comply with any operational rules of the pharmacy  
7 benefit manager while on the pharmacy benefit manager's property.

8 (d) The pharmacy benefit manager shall pay a fee to the  
9 department not to exceed \$500 to cover the costs of an examination  
10 under this section.

11 Sec. 4154.102. ANNUAL STATEMENT. (a) Not later than March  
12 1 of each year, each pharmacy benefit manager subject to this  
13 chapter shall file with the department an annual statement for the  
14 preceding calendar year.

15 (b) The annual statement must be made on a form and in the  
16 manner prescribed by the commissioner, accompanied by a \$1,000  
17 filing fee, and must include the number and value of claims for  
18 pharmacists' services that are processed by the pharmacy benefit  
19 manager for the preceding calendar year for all patients who are  
20 covered by a state-funded health care program.

21 Sec. 4154.103. EXTENSION OF FILING PERIOD. The  
22 commissioner may extend, for a period not to exceed 60 days, the  
23 time prescribed for the filing of an annual statement or other  
24 report or exhibit by a pharmacy benefit manager subject to this  
25 chapter for good cause.

26 Sec. 4154.104. ASSESSMENT. (a) In addition to the fees  
27 required under this chapter, the commissioner shall annually assess



1 each pharmacy benefit manager holding a certificate of authority  
2 under this chapter for the department's expenses in administering  
3 this chapter.

4 (b) The commissioner shall proportionately assess each  
5 pharmacy benefit manager under Subsection (a) for its share of the  
6 total expenses incurred by the department in administering this  
7 chapter in proportion to the business done by all pharmacy benefit  
8 managers in this state providing services for state-funded health  
9 care programs, as determined by the commissioner by rule.

10 Sec. 4154.105. CHANGE IN OWNERSHIP. A pharmacy benefit  
11 manager subject to this chapter must notify the department in  
12 writing of any material change in the ownership of the pharmacy  
13 benefit manager not later than the fifth day after the effective  
14 date of the change of ownership.

15 Sec. 4154.106. ARBITRATION. (a) The commissioner by rule  
16 shall establish a procedure that uses arbitration for resolving  
17 disputes arising under contracts entered into by pharmacy benefit  
18 managers with state-funded health care programs.

19 (b) The arbitration procedure adopted under Subsection (a)  
20 must include participation by:

21 (1) pharmacy benefit managers or their  
22 representatives;

23 (2) insurers, health maintenance organizations, or  
24 state agencies; and

25 (3) pharmacists.

26 [Sections 4154.107-4154.150 reserved for expansion]

SUBCHAPTER D. CONTRACT ISSUES

1                   Sec. 4154.151. STANDARD CONTRACT FORMS REQUIRED. (a) The  
2 commissioner, in consultation with the contract advisory panel  
3 established under Section 4154.152, shall adopt rules that  
4 establish standard contract forms for use by pharmacy benefit  
5 managers in entering into contracts with pharmacies and pharmacists  
6 and this state, insurers, and health maintenance organizations that  
7 relate to the operation of a state-funded health care program.

8                   (b) Except as provided by Section 4154.153, a pharmacy  
9 benefit manager that enters into a contract described by Subsection  
10 (a) must use a contract form adopted by the commissioner under this  
11 section.

12                   (c) The terms of a contract form adopted under this section  
13 and entered into by a pharmacy benefit manager subject to this  
14 chapter may not be subsequently modified unless the modification is  
15 agreed to by the pharmacy benefit manager and the pharmacy or the  
16 pharmacist or the state, the insurer, or the health maintenance  
17 organization.

18                   Sec. 4154.152. PHARMACY BENEFIT MANAGER CONTRACT ADVISORY  
19 PANEL. (a) The pharmacy benefit manager contract advisory panel is  
20 established as an advisory body to the commissioner. The advisory  
21 panel shall advise and make recommendations to the commissioner  
22 regarding the adoption of standard contract forms under Section  
23 4154.151.

24                   (b) The advisory panel is composed of nine members appointed  
25 jointly by the commissioner and the board as follows:

26                   (1) two members must be attorneys who primarily  
27

1 represent insurers or health maintenance organizations or who are  
2 employed by state agencies;

3 (2) two members must be pharmacists;

4 (3) two members must be pharmacy benefit managers who  
5 hold certificates of authority under this chapter; and

6 (4) three members must be public members.

7 (c) A public member of the advisory panel may not:

8 (1) receive any compensation from, or be employed  
9 directly or indirectly by, a pharmacist, pharmacy benefit manager,  
10 health care provider, insurer, health maintenance organization, or  
11 state agency;

12 (2) be a pharmacist or pharmacy benefit manager; or

13 (3) be a person required to register as a lobbyist  
14 under Chapter 305, Government Code, because of the person's  
15 activities for compensation on behalf of a profession related to  
16 the operation of the advisory panel.

17 (d) Members of the advisory panel serve without  
18 compensation and at the will of the commissioner.

19 (e) Section 2110.008, Government Code, does not apply to the  
20 advisory panel.

21 Sec. 4154.153. COMMISSIONER APPROVAL OF CONTRACT FORMS.

22 (a) Not later than the 30th day before the date on which a pharmacy  
23 benefit manager proposes to use a form in this state, other than a  
24 form adopted under Section 4154.151, for a contract entered into  
25 with a pharmacy or pharmacist to provide services in this state for  
26 a state-funded health care program, the pharmacy benefit manager  
27 must file the form with the department.

1       (b) Each contract form is subject to approval by the  
2 commissioner. If the commissioner fails to approve a form before  
3 the 31st day after the date on which the form is received by the  
4 department, the form is deemed disapproved.

5       (c) The commissioner by rule shall develop formal criteria  
6 for the approval and disapproval of pharmacy benefit manager  
7 contract forms under this section.

8       Sec. 4154.154. CONTRACT TERMS. (a) Each contract entered  
9 into by a pharmacy benefit manager under this chapter must:

10           (1) establish specific times within which the pharmacy  
11 benefit manager is required to pay a pharmacy, a pharmacist, or both  
12 for services rendered;

13           (2) include a provision stating that a pharmacy is not  
14 liable for the acts or omissions of the pharmacy benefit manager;  
15 and

16           (3) establish the average wholesale price of a  
17 prescription drug or device that is used as an index for claim  
18 payments.

19       (b) A pharmacy benefit manager contract may not:

20           (1) establish basic recordkeeping requirements for a  
21 pharmacy or pharmacist that are more stringent than the  
22 recordkeeping requirements required by state or federal laws or  
23 rules;

24           (2) require a pharmacy or pharmacist to change a  
25 maintenance drug prescribed for a patient unless the prescribing  
26 physician orders the change; or

27           (3) limit the services a pharmacist may provide to a

1 range narrower than the scope of the pharmacist's license to  
2 practice pharmacy.

3 [Sections 4154.155-4154.200 reserved for expansion]

4 SUBCHAPTER E. POWERS AND DUTIES OF PHARMACY BENEFIT MANAGERS

5 Sec. 4154.201. MEDICATION REIMBURSEMENT COSTS; INDEX. (a)

6 Each pharmacy benefit manager subject to this chapter shall use a  
7 current nationally recognized benchmark as the basis for  
8 reimbursements for medications and products dispensed by  
9 pharmacies and pharmacists with whom the pharmacy benefit manager  
10 contracts.

11 (b) For brand-name single source drugs and brand-name  
12 multi-source drugs, the pharmacy benefit manager shall use as an  
13 index the average wholesale price, as listed in:

- 14 (1) First DataBank;  
15 (2) Facts & Comparisons; or  
16 (3) a comparable source recognized by the  
17 commissioner, as provided by Subsection (d).

18 (c) For generic multi-source drugs, maximum allowable costs  
19 shall be established by referencing the baseline price, as listed  
20 in:

- 21 (1) First DataBank;  
22 (2) Facts & Comparisons; or  
23 (3) a comparable source recognized by the  
24 commissioner, as provided by Subsection (d).

25 (d) If a publication specified in Subsection (b) or (c)  
26 ceases to be a nationally recognized benchmark for reimbursement  
27 for medication and products dispensed by pharmacies and

1 pharmacists, the commissioner may adopt any other current  
2 nationally recognized benchmark that is established and published  
3 by a person with whom pharmacy benefit managers do not have a  
4 financial or business interest or connection.

5 (e) To be eligible to be reimbursed through a maximum  
6 allowable cost price methodology, a product must:

7 (1) be equivalent and generically interchangeable as  
8 provided by state laws related to pharmaceutical products; and

9 (2) have a United States Food and Drug Administration  
10 Orange Book rating of "A" through "B".

11 (f) If a generic multi-source drug product does not have a  
12 baseline price, the drug shall be treated as a brand-name single  
13 source drug for the purpose of valuing reimbursement.

14 [Sections 4154.202-4154.250 reserved for expansion]

15 SUBCHAPTER F. PROHIBITED ACTIONS BY PHARMACY BENEFIT MANAGERS

16 Sec. 4154.251. CERTAIN RETROACTIVE CLAIM ADJUSTMENTS  
17 PROHIBITED. (a) A pharmacy benefit manager subject to this chapter  
18 may not retroactively deny a claim paid by the pharmacy benefit  
19 manager for a pharmacist's services or adjust the claim after  
20 adjudication of the claim unless:

21 (1) the original claim was submitted fraudulently;

22 (2) the payment of the original claim was in error  
23 because the pharmacy or pharmacist had already been paid for the  
24 pharmacist's services; or

25 (3) the services in question were not rendered by the  
26 pharmacy or pharmacist.

27 (b) A pharmacy benefit manager subject to this chapter may

1 not retroactively reverse an acknowledgment of eligibility.

2 Sec. 4154.252. DECEPTIVE ADVERTISEMENTS OR OFFERS  
3 PROHIBITED. A pharmacy benefit manager subject to this chapter, or  
4 a representative of the pharmacy benefit manager, may not cause or  
5 knowingly permit the use of an advertisement, promotion,  
6 solicitation, proposal, or offer that is untrue, deceptive, or  
7 misleading.

8 Sec. 4154.253. PROHIBITED ACTIONS AGAINST PHARMACY OR  
9 PHARMACIST. A pharmacy benefit manager subject to this chapter may  
10 not penalize a pharmacy or terminate a contract with a pharmacy  
11 solely because the pharmacy or a pharmacist employed by the  
12 pharmacy:

13 (1) files a complaint with the department against the  
14 pharmacy benefit manager;

15 (2) disagrees with the pharmacy benefit manager's  
16 decision to deny or limit benefits to an insured, member, enrollee,  
17 recipient, or other covered person;

18 (3) assists an insured, member, enrollee, recipient,  
19 or other covered person in seeking reconsideration of the pharmacy  
20 benefit manager's decision to deny or limit benefits to the person;  
21 or

22 (4) discusses alternative prescription drugs or  
23 devices with an insured, member, enrollee, recipient, or other  
24 covered person.

25 Sec. 4154.254. PROHIBITED ACTIONS REGARDING BENEFITS. A  
26 pharmacy benefit manager subject to this chapter may not:

27 (1) intervene in the delivery or transmission of

1 prescriptions from a prescribing health care practitioner to a  
2 pharmacy or pharmacist for purposes of influencing the prescribing  
3 health care practitioner's choice of therapy;

4 (2) attempt to influence an insured's, member's, or  
5 enrollee's choice of pharmacy or pharmacist; or

6 (3) change a drug or device prescribed by a health care  
7 practitioner without the written consent of the prescribing health  
8 care practitioner.

9 Sec. 4154.255. LICENSE TO PRACTICE PHARMACY REQUIRED.

10 Unless a pharmacy benefit manager subject to this chapter also  
11 holds a license to practice pharmacy issued by the board under  
12 Chapter 558, Occupations Code, the person may not:

13 (1) provide pharmaceutical care or patient  
14 counseling;

15 (2) interpret or evaluate a prescription drug order;

16 (3) participate in prescription drug or device  
17 selection, administration, or regimen review;

18 (4) dispense or distribute drug orders or products; or

19 (5) perform a specific act of drug therapy for an  
20 insured, member, or enrollee.

21 [Sections 4154.256-4154.300 reserved for expansion]

22 SUBCHAPTER G. ENFORCEMENT; SANCTIONS

23 Sec. 4154.301. COMPLAINTS; INVESTIGATION. (a) The  
24 commissioner by rule shall adopt procedures for investigation of  
25 complaints concerning the failure of a pharmacy benefit manager  
26 subject to this chapter to comply with this chapter or Subchapter D,  
27 Chapter 4151.



1           (b) The commissioner shall refer a complaint received under  
2 this chapter to the board if the complaint involves:

3           (1) a pharmacy or a pharmacist or other health care  
4 practitioner regulated under Subtitle J, Title 3, Occupations Code;  
5 or

6           (2) an issue regarding patient health or safety.

7           Sec. 4154.302. DISCIPLINARY ACTIONS. If the commissioner  
8 has reason to believe that a violation of this chapter has occurred,  
9 the commissioner may:

10           (1) issue an emergency cease and desist order under  
11 Chapter 83 against the pharmacy benefit manager; or

12           (2) impose any other necessary or appropriate sanction  
13 under Chapter 82, including suspension or revocation of the  
14 pharmacy benefit manager's certificate of authority.

15           Sec. 4154.303. ADMINISTRATIVE PENALTY. A person that acts  
16 as a pharmacy benefit manager for a state-funded health care  
17 program without a certificate of authority issued under this  
18 chapter is subject to administrative penalties under Chapter 84.  
19 An administrative penalty imposed under this section may not be  
20 less than \$5,000 or greater than \$10,000 for each violation.

21           Sec. 4154.304. CRIMINAL PENALTY. (a) A pharmacy benefit  
22 manager subject to this chapter commits an offense if the pharmacy  
23 benefit manager knowingly violates this chapter or a commissioner  
24 rule adopted under this chapter.

25           (b) An offense under this section is a misdemeanor  
26 punishable by a fine of not less than \$500 or more than \$5,000.

27           SECTION 2. Section 4151.001(1), Insurance Code, as

1 effective April 1, 2005, is amended to read as follows:

2 (1) "Administrator" means a person who, in connection  
3 with annuities or life, health, and accident benefits, including  
4 pharmacy benefits, collects premiums or contributions from or  
5 adjusts or settles claims for residents of this state. The term  
6 does not include:

7 (A) a person described by Section 4151.002; or

8 (B) a pharmacy benefit manager regulated under  
9 Chapter 4154.

10 SECTION 3. (a) This section applies only to a person who:

11 (1) on the effective date of this Act, holds a  
12 certificate of authority issued under Chapter 4151, Insurance Code,  
13 as effective April 1, 2005; and

14 (2) immediately before the effective date of this Act  
15 is operating as a pharmacy benefit manager under that chapter.

16 (b) Notwithstanding any other provision of this Act, a  
17 person to whom this section applies is entitled to an initial  
18 certificate of authority under Chapter 4154, Insurance Code, as  
19 added by this Act, if the person applies to the commissioner of  
20 insurance in writing not later than March 1, 2006. The person is  
21 not required to comply with the application requirements adopted  
22 under Subchapter B, Chapter 4154, Insurance Code, as added by this  
23 Act, if the commissioner of insurance determines that the person is  
24 in compliance with the application and fidelity bond requirements  
25 imposed under Subchapter B, Chapter 4151, Insurance Code, as  
26 effective April 1, 2005.

27 (c) The commissioner of insurance shall adopt rules as

1 necessary to implement this section.

2 (d) This section expires July 1, 2006.

3 SECTION 4. A person is not required to hold a certificate of  
4 authority under Chapter 4154, Insurance Code, as added by this Act,  
5 to operate as a pharmacy benefit manager in this state for a  
6 state-funded health care program until January 1, 2006.

7 SECTION 5. The commissioner of insurance shall adopt rules  
8 as necessary to implement Chapter 4154, Insurance Code, as added by  
9 this Act, not later than December 31, 2005.

10 SECTION 6. (a) Except as provided by Subsection (b) of this  
11 section, this Act takes effect September 1, 2005.

12 (b) Sections 4154.051, 4154.303, and 4154.304, Insurance  
13 Code, take effect January 1, 2006.