

By: Isett

H.B. No. 3280

A BILL TO BE ENTITLED

AN ACT

1
2 relating to treatment of pharmaceutical services provided through
3 specialty and mail order pharmacy services operated under contracts
4 between governmental entities and pharmacy benefit managers.

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

6 SECTION 1. Subchapter B, Chapter 531, Government Code, is
7 amended by adding Sections 531.0746, 531.0747, and 531.0748 to read
8 as follows:

9 Sec. 531.0746. SPECIALTY PHARMACY SERVICES. (a) In this
10 section:

11 (1) "Pharmacy benefit manager" means a person, other
12 than a pharmacy or pharmacist, who acts as an administrator in
13 connection with pharmacy benefits.

14 (2) "Specialty pharmacy service" means a service
15 offered by a pharmacy benefit manager in relation to benefits that
16 involve chronic conditions, unusually high treatment costs, or
17 management of complex care issues. The term specifically includes
18 the provision of pharmaceutical benefits involving:

19 (A) injectable and infusion therapies;

20 (B) therapies with annual costs to the patient of
21 \$5,000 or more; and

22 (C) therapies requiring complex care.

23 (b) A contract with a pharmacy benefit manager entered into
24 with respect to any program under the jurisdiction of the

1 commission that includes specialty pharmacy services must provide
2 that the pharmacy benefit manager shall:

3 (1) pass through to the commission for deposit in the
4 general revenue fund 100 percent of any revenue associated with
5 distribution of a specialty pharmacy product paid by a
6 pharmaceutical manufacturer or labeler to the pharmacy benefit
7 manager;

8 (2) agree to charge the commission on an acquisition
9 cost basis, which may include a dispensing fee, for all specialty
10 pharmacy prescriptions, based on actual inventory costs or
11 wholesale acquisition cost; and

12 (3) provide case management for critical disease
13 conditions, as specified by the contract, and agree not to
14 incorporate the costs of the case management into the costs
15 assessed for drug ingredients for the specialty pharmacy product.

16 Sec. 531.0747. MAIL ORDER PHARMACY SERVICES. (a) In this
17 section:

18 (1) "Mail order pharmacy" means a pharmacy that is
19 licensed as a Class A or Class E pharmacy under Chapter 560,
20 Occupations Code, and that primarily delivers prescription drugs to
21 an enrollee through the United States Postal Service or a
22 commercial delivery service.

23 (2) "Pharmacy benefit manager" means a person, other
24 than a pharmacy or pharmacist, who acts as an administrator in
25 connection with pharmacy benefits.

26 (b) A contract with a pharmacy benefit manager entered into
27 with respect to any program under the jurisdiction of the

1 commission that includes pharmacy services must provide that the
2 pharmacy benefit manager shall agree to charge the commission on an
3 acquisition cost basis, which may include a dispensing fee, for all
4 prescriptions filled by a mail order pharmacy, based on actual
5 inventory costs or wholesale acquisition cost.

6 Sec. 531.0748. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
7 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
8 designate as confidential any information the pharmacy benefit
9 manager is required to disclose to comply with Section 531.0746 or
10 531.0747.

11 (b) Information designated as confidential under this
12 section may not be disclosed by the commission to any person without
13 the consent of the pharmacy benefit manager unless the disclosure
14 is:

15 (1) ordered by a court for good cause shown;

16 (2) made under seal in a court filing; or

17 (3) made to the commissioner of insurance or the
18 attorney general in connection with an investigation authorized by
19 this code, the Insurance Code, or any other law.

20 SECTION 2. Subchapter D, Chapter 1001, Health and Safety
21 Code, is amended by adding Sections 1001.081, 1001.082, and
22 1001.083 to read as follows:

23 Sec. 1001.081. SPECIALTY PHARMACY SERVICES. (a) In this
24 section:

25 (1) "Pharmacy benefit manager" means a person, other
26 than a pharmacy or pharmacist, who acts as an administrator in
27 connection with pharmacy benefits.

1 (2) "Specialty pharmacy service" means a service
2 offered by a pharmacy benefit manager in relation to benefits that
3 involve chronic conditions, unusually high treatment costs, or
4 management of complex care issues. The term specifically includes
5 the provision of pharmaceutical benefits involving:

6 (A) injectable and infusion therapies;

7 (B) therapies with annual costs to the patient of
8 \$5,000 or more; and

9 (C) therapies requiring complex care.

10 (b) A contract with a pharmacy benefit manager entered into
11 with respect to any program under the jurisdiction of the
12 department that includes specialty pharmacy services must provide
13 that the pharmacy benefit manager shall:

14 (1) pass through to the department for deposit in the
15 general revenue fund 100 percent of any of the revenue associated
16 with distribution of a specialty pharmacy product paid by a
17 pharmaceutical manufacturer or labeler to the pharmacy benefit
18 manager;

19 (2) agree to charge the department on an acquisition
20 cost basis, which may include a dispensing fee, for all specialty
21 pharmacy prescriptions, based on actual inventory costs or
22 wholesale acquisition cost; and

23 (3) provide case management for critical disease
24 conditions, as specified by the contract, and agree not to
25 incorporate the costs of the case management into the costs
26 assessed for drug ingredients for the specialty pharmacy product.

27 Sec. 1001.082. MAIL ORDER PHARMACY SERVICES. (a) In this

1 section:

2 (1) "Mail order pharmacy" means a pharmacy that is
3 licensed as a Class A or Class E pharmacy under Chapter 560,
4 Occupations Code, and that primarily delivers prescription drugs to
5 an enrollee through the United States Postal Service or a
6 commercial delivery service.

7 (2) "Pharmacy benefit manager" means a person, other
8 than a pharmacy or pharmacist, who acts as an administrator in
9 connection with pharmacy benefits.

10 (b) A contract with a pharmacy benefit manager entered into
11 with respect to any program under the jurisdiction of the
12 department that includes pharmacy services must provide that the
13 pharmacy benefit manager shall agree to charge the department on an
14 acquisition cost basis, which may include a dispensing fee, for all
15 prescriptions filled by a mail order pharmacy, based on actual
16 inventory costs or wholesale acquisition cost.

17 Sec. 1001.083. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
18 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
19 designate as confidential any information the pharmacy benefit
20 manager is required to disclose to comply with Section 1001.081 or
21 1001.082.

22 (b) Information designated as confidential under this
23 section may not be disclosed by the department to any person without
24 the consent of the pharmacy benefit manager unless the disclosure
25 is:

26 (1) ordered by a court for good cause shown;

27 (2) made under seal in a court filing; or

1 (3) made to the commissioner of insurance or the
2 attorney general in connection with an investigation authorized by
3 this code, the Insurance Code, or any other law.

4 SECTION 3. Subchapter B, Chapter 1551, Insurance Code, is
5 amended by adding Sections 1551.073, 1551.074, and 1551.075 to read
6 as follows:

7 Sec. 1551.073. SPECIALTY PHARMACY SERVICES. (a) In this
8 section:

9 (1) "Pharmacy benefit manager" means an administering
10 firm or other person, other than a pharmacy or pharmacist, who acts
11 as an administrator in connection with pharmacy benefits. The term
12 includes an administrator subject to Chapter 4151 who administers
13 pharmacy benefits.

14 (2) "Specialty pharmacy service" means a service
15 offered by a pharmacy benefit manager in relation to benefits that
16 involve chronic conditions, unusually high treatment costs, or
17 management of complex care issues. The term specifically includes
18 the provision of pharmaceutical benefits involving:

19 (A) injectable and infusion therapies;

20 (B) therapies with annual costs to the patient of
21 \$5,000 or more; and

22 (C) therapies requiring complex care.

23 (b) A contract with a pharmacy benefit manager entered into
24 with respect to the group benefits program that includes specialty
25 pharmacy services must provide that the pharmacy benefit manager
26 shall:

27 (1) pass through to the board of trustees for deposit

1 to the credit of the employees life, accident, and health insurance
2 and benefits fund 100 percent of any revenue associated with
3 distribution of a specialty pharmacy product paid by a
4 pharmaceutical manufacturer or labeler to the pharmacy benefit
5 manager;

6 (2) agree to charge the board of trustees on an
7 acquisition cost basis, which may include a dispensing fee, for all
8 specialty pharmacy prescriptions, based on actual inventory costs
9 or wholesale acquisition cost; and

10 (3) provide case management for critical disease
11 conditions, as specified by the contract, and agree not to
12 incorporate the costs of the case management into the costs
13 assessed for drug ingredients for the specialty pharmacy product.

14 Sec. 1551.074. MAIL ORDER PHARMACY SERVICES. (a) In this
15 section:

16 (1) "Mail order pharmacy" means a pharmacy that is
17 licensed as a Class A or Class E pharmacy under Chapter 560,
18 Occupations Code, and that primarily delivers prescription drugs to
19 an enrollee through the United States Postal Service or a
20 commercial delivery service.

21 (2) "Pharmacy benefit manager" means an administering
22 firm or other person, other than a pharmacy or pharmacist, who acts
23 as an administrator in connection with pharmacy benefits. The term
24 includes an administrator subject to Chapter 4151 who administers
25 pharmacy benefits.

26 (b) A contract with a pharmacy benefit manager entered into
27 with respect to the group benefits program that includes pharmacy

1 services must provide that the pharmacy benefit manager shall agree
2 to charge the board of trustees on an acquisition cost basis, which
3 may include a dispensing fee, for all prescriptions filled by a mail
4 order pharmacy, based on actual inventory costs or wholesale
5 acquisition cost.

6 Sec. 1551.075. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
7 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
8 designate as confidential any information the pharmacy benefit
9 manager is required to disclose to comply with Section 1551.073 or
10 1551.074.

11 (b) Information designated as confidential under this
12 section may not be disclosed by the board of trustees to any person
13 without the consent of the pharmacy benefit manager unless the
14 disclosure is:

15 (1) ordered by a court for good cause shown;

16 (2) made under seal in a court filing; or

17 (3) made to the commissioner or the attorney general
18 in connection with an investigation authorized by this code or any
19 other law.

20 SECTION 4. Subchapter B, Chapter 1575, Insurance Code, is
21 amended by adding Sections 1575.062, 1575.063, and 1575.064 to read
22 as follows:

23 Sec. 1575.062. SPECIALTY PHARMACY SERVICES. (a) In this
24 section:

25 (1) "Pharmacy benefit manager" means an administering
26 firm or other person, other than a pharmacy or pharmacist, who acts
27 as an administrator in connection with pharmacy benefits. The term

1 includes an administrator subject to Chapter 4151 who administers
2 pharmacy benefits.

3 (2) "Specialty pharmacy service" means a service
4 offered by a pharmacy benefit manager in relation to benefits that
5 involve chronic conditions, unusually high treatment costs, or
6 management of complex care issues. The term specifically includes
7 the provision of pharmaceutical benefits involving:

8 (A) injectable and infusion therapies;

9 (B) therapies with annual costs to the patient of
10 \$5,000 or more; and

11 (C) therapies requiring complex care.

12 (b) A contract with a pharmacy benefit manager entered into
13 with respect to the group program that includes specialty pharmacy
14 services must provide that the pharmacy benefit manager shall:

15 (1) pass through to the trustee for deposit to the
16 credit of the retired school employees group insurance fund 100
17 percent of any revenue associated with distribution of a specialty
18 pharmacy product paid by a pharmaceutical manufacturer or labeler
19 to the pharmacy benefit manager;

20 (2) agree to charge the trustee on an acquisition cost
21 basis, which may include a dispensing fee, for all specialty
22 pharmacy prescriptions, based on actual inventory costs or
23 wholesale acquisition cost; and

24 (3) provide case management for critical disease
25 conditions, as specified by the contract, and agree not to
26 incorporate the costs of the case management into the costs
27 assessed for drug ingredients for the specialty pharmacy product.

1 Sec. 1575.063. MAIL ORDER PHARMACY SERVICES. (a) In this
2 section:

3 (1) "Mail order pharmacy" means a pharmacy that is
4 licensed as a Class A or Class E pharmacy under Chapter 560,
5 Occupations Code, and that primarily delivers prescription drugs to
6 an enrollee through the United States Postal Service or a
7 commercial delivery service.

8 (2) "Pharmacy benefit manager" means an administering
9 firm or other person, other than a pharmacy or pharmacist, who acts
10 as an administrator in connection with pharmacy benefits. The term
11 includes an administrator subject to Chapter 4151 who administers
12 pharmacy benefits.

13 (b) A contract with a pharmacy benefit manager entered into
14 with respect to the group program that includes pharmacy services
15 must provide that the pharmacy benefit manager shall agree to
16 charge the trustee on an acquisition cost basis, which may include a
17 dispensing fee, for all prescriptions filled by a mail order
18 pharmacy, based on actual inventory costs or wholesale acquisition
19 cost.

20 Sec. 1575.064. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
21 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
22 designate as confidential any information the pharmacy benefit
23 manager is required to disclose to comply with Section 1575.062 or
24 1575.063.

25 (b) Information designated as confidential under this
26 section may not be disclosed by the trustee to any person without
27 the consent of the pharmacy benefit manager unless the disclosure

1 is:

- 2 (1) ordered by a court for good cause shown;
3 (2) made under seal in a court filing; or
4 (3) made to the commissioner or the attorney general
5 in connection with an investigation authorized by this code or any
6 other law.

7 SECTION 5. Subchapter B, Chapter 1579, Insurance Code, is
8 amended by adding Sections 1579.061, 1579.062, and 1579.063 to read
9 as follows:

10 Sec. 1579.061. SPECIALTY PHARMACY SERVICES. (a) In this
11 section:

12 (1) "Pharmacy benefit manager" means an administering
13 firm or other person, other than a pharmacy or pharmacist, who acts
14 as an administrator in connection with pharmacy benefits. The term
15 includes an administrator subject to Chapter 4151 who administers
16 pharmacy benefits.

17 (2) "Specialty pharmacy service" means a service
18 offered by a pharmacy benefit manager in relation to benefits that
19 involve chronic conditions, unusually high treatment costs, or
20 management of complex care issues. The term specifically includes
21 the provision of pharmaceutical benefits involving:

- 22 (A) injectable and infusion therapies;
23 (B) therapies with annual costs to the patient of
24 \$5,000 or more; and
25 (C) therapies requiring complex care.

26 (b) A contract with a pharmacy benefit manager entered into
27 with respect to the program that includes specialty pharmacy

1 services must provide that the pharmacy benefit manager shall:

2 (1) pass through to the trustee for deposit to the
3 credit of the Texas school employees uniform group coverage trust
4 fund 100 percent of any revenue associated with distribution of a
5 specialty pharmacy product paid by a pharmaceutical manufacturer or
6 labeler to the pharmacy benefit manager;

7 (2) agree to charge the trustee on an acquisition cost
8 basis, which may include a dispensing fee, for all specialty
9 pharmacy prescriptions, based on actual inventory costs or
10 wholesale acquisition cost; and

11 (3) provide case management for critical disease
12 conditions, as specified by the contract, and agree not to
13 incorporate the costs of the case management into the costs
14 assessed for drug ingredients for the specialty pharmacy product.

15 Sec. 1579.062. MAIL ORDER PHARMACY SERVICES. (a) In this
16 section:

17 (1) "Mail order pharmacy" means a pharmacy that is
18 licensed as a Class A or Class E pharmacy under Chapter 560,
19 Occupations Code, and that primarily delivers prescription drugs to
20 an enrollee through the United States Postal Service or a
21 commercial delivery service.

22 (2) "Pharmacy benefit manager" means an administering
23 firm or other person, other than a pharmacy or pharmacist, who acts
24 as an administrator in connection with pharmacy benefits. The term
25 includes an administrator subject to Chapter 4151 who administers
26 pharmacy benefits.

27 (b) A contract with a pharmacy benefit manager entered into

1 with respect to the program that includes pharmacy services must
2 provide that the pharmacy benefit manager shall agree to charge the
3 trustee on an acquisition cost basis, which may include a
4 dispensing fee, for all prescriptions filled by a mail order
5 pharmacy, based on actual inventory costs or wholesale acquisition
6 cost.

7 Sec. 1579.063. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
8 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
9 designate as confidential any information the pharmacy benefit
10 manager is required to disclose to comply with Section 1579.061 or
11 1579.062.

12 (b) Information designated as confidential under this
13 section may not be disclosed by the trustee to any person without
14 the consent of the pharmacy benefit manager unless the disclosure
15 is:

- 16 (1) ordered by a court for good cause shown;
17 (2) made under seal in a court filing; or
18 (3) made to the commissioner or the attorney general
19 in connection with an investigation authorized by this code or any
20 other law.

21 SECTION 6. The change in law made by this Act applies only
22 to a contract with a pharmacy benefit manager executed or renewed on
23 or after the effective date of this Act.

24 SECTION 7. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2007.