

By: Callegari

H.B. No. 3454

Substitute the following for H.B. No. 3454:

By: Pitts

C.S.H.B. No. 3454

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to contracts between governmental entities and pharmacy  
3 benefit managers.

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

5 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
6 amended by adding Sections 531.0741, 531.0742, 531.0743, 531.0744,  
7 531.0745, and 531.0746 to read as follows:

8 Sec. 531.0741. TREATMENT OF CERTAIN REVENUE FROM  
9 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT  
10 MANAGERS. (a) In this section, "pharmacy benefit manager" means a  
11 person, other than a pharmacy or pharmacist, who acts as an  
12 administrator in connection with pharmacy benefits.

13 (b) A contract with a pharmacy benefit manager entered into  
14 with respect to any program under the jurisdiction of the  
15 commission must provide that:

16 (1) with respect to any transaction with a  
17 pharmaceutical manufacturer or labeler in relation to the program,  
18 the pharmacy benefit manager represents the interests of the  
19 program; and

20 (2) any compensation provided by a pharmaceutical  
21 manufacturer or labeler to the pharmacy benefit manager in relation  
22 to the program must be remitted to the commission for deposit to the  
23 credit of the general revenue fund, including compensation provided  
24 for formulary management and drug-switch programs, educational

1 support, claims processing and pharmacy network fees that are  
2 charged from retail pharmacies, and data sales fees.

3 Sec. 531.0742. SPECIALTY PHARMACY SERVICES. (a) In this  
4 section:

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

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

13 (A) injectable and infusion therapies;

14 (B) therapies with annual costs to the patient of  
15 \$5,000 or more; and

16 (C) therapies requiring complex care.

17 (b) A contract with a pharmacy benefit manager entered into  
18 with respect to any program under the jurisdiction of the  
19 commission that includes specialty pharmacy services must provide  
20 that the pharmacy benefit manager shall:

21 (1) pass through to the commission for deposit in the  
22 general revenue fund 100 percent of any revenue associated with  
23 distribution of a specialty pharmacy product paid by a  
24 pharmaceutical manufacturer or labeler to the pharmacy benefit  
25 manager;

26 (2) agree to charge the commission on an acquisition  
27 cost basis, which may include a dispensing fee, for all specialty

1 pharmacy prescriptions, based on actual inventory costs or  
2 wholesale acquisition cost; and

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

7 Sec. 531.0743. MAIL ORDER PHARMACY SERVICES. (a) In this  
8 section:

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

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

17 (b) A contract with a pharmacy benefit manager entered into  
18 with respect to any program under the jurisdiction of the  
19 commission that includes pharmacy services must provide that the  
20 pharmacy benefit manager shall agree to charge the commission on an  
21 acquisition cost basis, which may include a dispensing fee, for all  
22 prescriptions filled by a mail order pharmacy, based on actual  
23 inventory costs or wholesale acquisition cost.

24 Sec. 531.0744. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS  
25 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit  
26 manager" means a person, other than a pharmacy or pharmacist, who  
27 acts as an administrator in connection with pharmacy benefits.

1       (b) A contract with a pharmacy benefit manager entered into  
2 with respect to any program under the jurisdiction of the  
3 commission must provide that the pharmacy benefit manager may not  
4 charge the program an amount for a brand retail claim payment or  
5 generic retail claim payment that is more than the amount the  
6 pharmacy benefit manager pays a pharmacy in the pharmacy benefit  
7 manager's retail network for the same claim.

8       Sec. 531.0745. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In  
9 this section, "pharmacy benefit manager" means a person, other than  
10 a pharmacy or pharmacist, who acts as an administrator in  
11 connection with pharmacy benefits.

12       (b) A contract with a pharmacy benefit manager entered into  
13 with respect to any program under the jurisdiction of the  
14 commission must provide that the commission, using an auditor  
15 selected by the commission, may audit:

- 16               (1) the program's pharmacy benefit claims;  
17               (2) the pharmacy benefit manager's contracts with  
18 pharmacies and pharmaceutical manufacturers and labelers;  
19               (3) the pharmacy benefit manager's utilization  
20 management clinical criteria; and  
21               (4) mail service purchasing invoices related to  
22 benefits provided under the program.

23       (c) This section does not affect the state auditor's  
24 authority to access information or conduct an audit.

25       Sec. 531.0746. PHARMACY BENEFIT MANAGERS: DESIGNATION OF  
26 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may  
27 designate as confidential any information the pharmacy benefit

1 manager is required to disclose to comply with Section 531.0741,  
2 531.0742, 531.0743, 531.0744, or 531.0745.

3 (b) Information designated as confidential under this  
4 section may not be disclosed by the commission to any person without  
5 the consent of the pharmacy benefit manager unless the disclosure  
6 is:

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

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

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

12 SECTION 2. Subchapter D, Chapter 1001, Health and Safety  
13 Code, is amended by adding Sections 1001.076, 1001.077, 1001.078,  
14 1001.079, 1001.080, and 1001.081 to read as follows:

15 Sec. 1001.076. TREATMENT OF CERTAIN REVENUE FROM  
16 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT  
17 MANAGERS. (a) In this section, "pharmacy benefit manager" means a  
18 person, other than a pharmacy or pharmacist, who acts as an  
19 administrator in connection with pharmacy benefits.

20 (b) A contract with a pharmacy benefit manager entered into  
21 with respect to any program under the jurisdiction of the  
22 department must provide that:

23 (1) with respect to any transaction with a  
24 pharmaceutical manufacturer or labeler in relation to the program,  
25 the pharmacy benefit manager represents the interests of the  
26 program; and

27 (2) any compensation provided by a pharmaceutical

1 manufacturer or labeler to the pharmacy benefit manager in relation  
2 to the program must be remitted to the department for deposit to the  
3 credit of the general revenue fund, including compensation provided  
4 for formulary management and drug-switch programs, educational  
5 support, claims processing and pharmacy network fees that are  
6 charged from retail pharmacies, and data sales fees.

7 Sec. 1001.077. SPECIALTY PHARMACY SERVICES. (a) In this  
8 section:

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

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

17 (A) injectable and infusion therapies;

18 (B) therapies with annual costs to the patient of  
19 \$5,000 or more; and

20 (C) therapies requiring complex care.

21 (b) A contract with a pharmacy benefit manager entered into  
22 with respect to any program under the jurisdiction of the  
23 department that includes specialty pharmacy services must provide  
24 that the pharmacy benefit manager shall:

25 (1) pass through to the department for deposit in the  
26 general revenue fund 100 percent of any of the revenue associated  
27 with distribution of a specialty pharmacy product paid by a

1 pharmaceutical manufacturer or labeler to the pharmacy benefit  
2 manager;

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

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

11 Sec. 1001.078. MAIL ORDER PHARMACY SERVICES. (a) In this  
12 section:

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

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

21 (b) A contract with a pharmacy benefit manager entered into  
22 with respect to any program under the jurisdiction of the  
23 department that includes pharmacy services must provide that the  
24 pharmacy benefit manager shall agree to charge the department on an  
25 acquisition cost basis, which may include a dispensing fee, for all  
26 prescriptions filled by a mail order pharmacy, based on actual  
27 inventory costs or wholesale acquisition cost.

1       Sec. 1001.079. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS  
2 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit  
3 manager" means a person, other than a pharmacy or pharmacist, who  
4 acts as an administrator in connection with pharmacy benefits.

5       (b) A contract with a pharmacy benefit manager entered into  
6 with respect to any program under the jurisdiction of the  
7 department must provide that the pharmacy benefit manager may not  
8 charge the program an amount for a brand retail claim payment or  
9 generic retail claim payment that is more than the amount the  
10 pharmacy benefit manager pays a pharmacy in the pharmacy benefit  
11 manager's retail network for the same claim.

12       Sec. 1001.080. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In  
13 this section, "pharmacy benefit manager" means a person, other than  
14 a pharmacy or pharmacist, who acts as an administrator in  
15 connection with pharmacy benefits.

16       (b) A contract with a pharmacy benefit manager entered into  
17 with respect to any program under the jurisdiction of the  
18 department must provide that the department, using an auditor  
19 selected by the department, may audit:

- 20               (1) the program's pharmacy benefit claims;  
21               (2) the pharmacy benefit manager's contracts with  
22 pharmacies and pharmaceutical manufacturers and labelers;  
23               (3) the pharmacy benefit manager's utilization  
24 management clinical criteria; and  
25               (4) mail service purchasing invoices related to  
26 benefits provided under the program.

27       (c) This section does not affect the state auditor's



1 authority to access information or conduct an audit.

2 Sec. 1001.081. PHARMACY BENEFIT MANAGERS: DESIGNATION OF  
3 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may  
4 designate as confidential any information the pharmacy benefit  
5 manager is required to disclose to comply with Section 1001.076,  
6 1001.077, 1001.078, 1001.079, or 1001.080.

7 (b) Information designated as confidential under this  
8 section may not be disclosed by the department to any person without  
9 the consent of the pharmacy benefit manager unless the disclosure  
10 is:

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

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

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

16 SECTION 3. Subchapter B, Chapter 1551, Insurance Code, is  
17 amended by adding Sections 1551.068, 1551.069, 1551.070, 1551.071,  
18 1551.072, and 1551.073 to read as follows:

19 Sec. 1551.068. TREATMENT OF CERTAIN REVENUE FROM  
20 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT  
21 MANAGERS. (a) In this section, "pharmacy benefit manager" means an  
22 administering firm or other person, other than a pharmacy or  
23 pharmacist, who acts as an administrator in connection with  
24 pharmacy benefits. The term includes an administrator subject to  
25 Chapter 4151 who administers pharmacy benefits.

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

1           (1) with respect to any transaction with a  
2 pharmaceutical manufacturer or labeler in relation to the program,  
3 the pharmacy benefit manager represents the interests of the  
4 program; and

5           (2) any compensation provided by a pharmaceutical  
6 manufacturer or labeler to the pharmacy benefit manager in relation  
7 to the program must be remitted to the board of trustees for deposit  
8 to the credit of the employees life, accident, and health insurance  
9 and benefits fund, including compensation provided for formulary  
10 management and drug-switch programs, educational support, claims  
11 processing and pharmacy network fees that are charged from retail  
12 pharmacies, and data sales fees.

13           Sec. 1551.069. SPECIALTY PHARMACY SERVICES. (a) In this  
14 section:

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

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

25                   (A) injectable and infusion therapies;

26                   (B) therapies with annual costs to the patient of  
27 \$5,000 or more; and

1                   (C) therapies requiring complex care.

2           (b) A contract with a pharmacy benefit manager entered into  
3 with respect to the group benefits program that includes specialty  
4 pharmacy services must provide that the pharmacy benefit manager  
5 shall:

6                   (1) pass through to the board of trustees for deposit  
7 to the credit of the employees life, accident, and health insurance  
8 and benefits fund 100 percent of any revenue associated with  
9 distribution of a specialty pharmacy product paid by a  
10 pharmaceutical manufacturer or labeler to the pharmacy benefit  
11 manager;

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

16                   (3) provide case management for critical disease  
17 conditions, as specified by the contract, and agree not to  
18 incorporate the costs of the case management into the costs  
19 assessed for drug ingredients for the specialty pharmacy product.

20           Sec. 1551.070. MAIL ORDER PHARMACY SERVICES. (a) In this  
21 section:

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

27                   (2) "Pharmacy benefit manager" means an administering

1 firm or other person, other than a pharmacy or pharmacist, who acts  
2 as an administrator in connection with pharmacy benefits. The term  
3 includes an administrator subject to Chapter 4151 who administers  
4 pharmacy benefits.

5 (b) A contract with a pharmacy benefit manager entered into  
6 with respect to the group benefits program that includes pharmacy  
7 services must provide that the pharmacy benefit manager shall agree  
8 to charge the board of trustees on an acquisition cost basis, which  
9 may include a dispensing fee, for all prescriptions filled by a mail  
10 order pharmacy, based on actual inventory costs or wholesale  
11 acquisition cost.

12 Sec. 1551.071. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS  
13 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit  
14 manager" means an administering firm or other person, other than a  
15 pharmacy or pharmacist, who acts as an administrator in connection  
16 with pharmacy benefits. The term includes an administrator subject  
17 to Chapter 4151 who administers pharmacy benefits.

18 (b) A contract with a pharmacy benefit manager entered into  
19 with respect to the group benefits program must provide that the  
20 pharmacy benefit manager may not charge the program an amount for a  
21 brand retail claim payment or generic retail claim payment that is  
22 more than the amount the pharmacy benefit manager pays a pharmacy in  
23 the pharmacy benefit manager's retail network for the same claim.

24 Sec. 1551.072. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In  
25 this section, "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 (b) A contract with a pharmacy benefit manager entered into  
4 with respect to the group benefits program must provide that the  
5 board of trustees, using an auditor selected by the board of  
6 trustees, may audit:

7 (1) the program's pharmacy benefit claims;

8 (2) the pharmacy benefit manager's contracts with  
9 pharmacies and pharmaceutical manufacturers and labelers;

10 (3) the pharmacy benefit manager's utilization  
11 management clinical criteria; and

12 (4) mail service purchasing invoices related to  
13 benefits provided under the program.

14 (c) This section does not affect the state auditor's  
15 authority to access information or conduct an audit.

16 Sec. 1551.073. PHARMACY BENEFIT MANAGERS: DESIGNATION OF  
17 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may  
18 designate as confidential any information the pharmacy benefit  
19 manager is required to disclose to comply with Section 1551.068,  
20 1551.069, 1551.070, 1551.071, or 1551.072.

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

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

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

27 (3) made to the commissioner or the attorney general

1 in connection with an investigation authorized by this code or any  
2 other law.

3 SECTION 4. Subchapter B, Chapter 1575, Insurance Code, is  
4 amended by adding Sections 1575.057, 1575.058, 1575.059, 1575.060,  
5 1575.061, and 1575.062 to read as follows:

6 Sec. 1575.057. TREATMENT OF CERTAIN REVENUE FROM  
7 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT  
8 MANAGERS. (a) In this section, "pharmacy benefit manager" means a  
9 person, other than a pharmacy or pharmacist, who acts as an  
10 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 must provide that:

15 (1) with respect to any transaction with a  
16 pharmaceutical manufacturer or labeler in relation to the program,  
17 the pharmacy benefit manager represents the interests of the  
18 program; and

19 (2) any compensation provided by a pharmaceutical  
20 manufacturer or labeler to the pharmacy benefit manager in relation  
21 to the program must be remitted to the trustee for deposit to the  
22 credit of the retired school employees group insurance fund,  
23 including compensation provided for formulary management and  
24 drug-switch programs, educational support, claims processing and  
25 pharmacy network fees that are charged from retail pharmacies, and  
26 data sales fees.

27 Sec. 1575.058. SPECIALTY PHARMACY SERVICES. (a) In this

1 section:

2 (1) "Pharmacy benefit manager" means an administering  
3 firm or other person, other than a pharmacy or pharmacist, who acts  
4 as an administrator in connection with pharmacy benefits. The term  
5 includes an administrator subject to Chapter 4151 who administers  
6 pharmacy benefits.

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

12 (A) injectable and infusion therapies;

13 (B) therapies with annual costs to the patient of  
14 \$5,000 or more; and

15 (C) therapies requiring complex care.

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

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

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

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

5           Sec. 1575.059. MAIL ORDER PHARMACY SERVICES. (a) In this  
6 section:

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

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

24           Sec. 1575.060. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS  
25 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit  
26 manager" means a person, other than a pharmacy or pharmacist, who  
27 acts as an administrator in connection with pharmacy benefits. The



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

3 (b) A contract with a pharmacy benefit manager entered into  
4 with respect to the group program must provide that the pharmacy  
5 benefit manager may not charge the program an amount for a brand  
6 retail claim payment or generic retail claim payment that is more  
7 than the amount the pharmacy benefit manager pays a pharmacy in the  
8 pharmacy benefit manager's retail network for the same claim.

9 Sec. 1575.061. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In  
10 this section, "pharmacy benefit manager" means a person, other than  
11 a pharmacy or pharmacist, who acts as an administrator in  
12 connection with pharmacy benefits. The term includes an  
13 administrator subject to Chapter 4151 who administers pharmacy  
14 benefits.

15 (b) A contract with a pharmacy benefit manager entered into  
16 with respect to the group program must provide that the trustee,  
17 using an auditor selected by the trustee, may audit:

18 (1) the program's pharmacy benefit claims;

19 (2) the pharmacy benefit manager's contracts with  
20 pharmacies and pharmaceutical manufacturers and labelers;

21 (3) the pharmacy benefit manager's utilization  
22 management clinical criteria; and

23 (4) mail service purchasing invoices related to  
24 benefits provided under the program.

25 (c) This section does not affect the state auditor's  
26 authority to access information or conduct an audit.

27 Sec. 1575.062. PHARMACY BENEFIT MANAGERS: DESIGNATION OF

1 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may  
2 designate as confidential any information the pharmacy benefit  
3 manager is required to disclose to comply with Section 1575.057,  
4 1575.058, 1575.059, 1575.060, or 1575.061.

5 (b) Information designated as confidential under this  
6 section may not be disclosed by the trustee to any person without  
7 the consent of the pharmacy benefit manager unless the disclosure  
8 is:

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

14 SECTION 5. Subchapter B, Chapter 1579, Insurance Code, is  
15 amended by adding Sections 1579.056, 1579.057, 1579.058, 1579.059,  
16 1579.060, and 1579.061 to read as follows:

17 Sec. 1579.056. TREATMENT OF CERTAIN REVENUE FROM  
18 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT  
19 MANAGERS. (a) In this section, "pharmacy benefit manager" means an  
20 administering firm or other person, other than a pharmacy or  
21 pharmacist, who acts as an administrator in connection with  
22 pharmacy benefits. The term includes an administrator subject to  
23 Chapter 4151 who administers pharmacy benefits.

24 (b) A contract with a pharmacy benefit manager entered into  
25 with respect to the program must provide that:

26 (1) with respect to any transaction with a  
27 pharmaceutical manufacturer or labeler in relation to the program,

1 the pharmacy benefit manager represents the interests of the  
2 program; and

3 (2) any compensation provided by a pharmaceutical  
4 manufacturer or labeler to the pharmacy benefit manager in relation  
5 to the program must be remitted to the trustee for deposit to the  
6 credit of the Texas school employees uniform group coverage trust  
7 fund, including compensation provided for formulary management and  
8 drug-switch programs, educational support, claims processing and  
9 pharmacy network fees that are charged from retail pharmacies, and  
10 data sales fees.

11 Sec. 1579.057. SPECIALTY PHARMACY SERVICES. (a) In this  
12 section:

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

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

23 (A) injectable and infusion therapies;

24 (B) therapies with annual costs to the patient of  
25 \$5,000 or more; and

26 (C) therapies requiring complex care.

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

1 with respect to the program that includes specialty pharmacy  
2 services must provide that the pharmacy benefit manager shall:

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

8 (2) agree to charge the trustee on an acquisition cost  
9 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. 1579.058. 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 an administering  
24 firm or other person, other than a pharmacy or pharmacist, who acts  
25 as an administrator in connection with pharmacy benefits. The term  
26 includes an administrator subject to Chapter 4151 who administers  
27 pharmacy benefits.

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

8       Sec. 1579.059. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS  
9 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit  
10 manager" means an administering firm or other person, other than a  
11 pharmacy or pharmacist, who acts as an administrator in connection  
12 with pharmacy benefits. The term includes an administrator subject  
13 to Chapter 4151 who administers pharmacy benefits.

14       (b) A contract with a pharmacy benefit manager entered into  
15 with respect to the program must provide that the pharmacy benefit  
16 manager may not charge the program an amount for a brand retail  
17 claim payment or generic retail claim payment that is more than the  
18 amount the pharmacy benefit manager pays a pharmacy in the pharmacy  
19 benefit manager's retail network for the same claim.

20       Sec. 1579.060. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In  
21 this section, "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 program must provide that the trustee, using an

1 auditor selected by the trustee, may audit:

2 (1) the program's pharmacy benefit claims;

3 (2) the pharmacy benefit manager's contracts with  
4 pharmacies and pharmaceutical manufacturers and labelers;

5 (3) the pharmacy benefit manager's utilization  
6 management clinical criteria; and

7 (4) mail service purchasing invoices related to  
8 benefits provided under the program.

9 (c) This section does not affect the state auditor's  
10 authority to access information or conduct an audit.

11 Sec. 1579.061. PHARMACY BENEFIT MANAGERS: DESIGNATION OF  
12 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may  
13 designate as confidential any information the pharmacy benefit  
14 manager is required to disclose to comply with Section 1579.056,  
15 1579.057, 1579.058, 1579.059, or 1579.060.

16 (b) Information designated as confidential under this  
17 section may not be disclosed by the trustee to any person without  
18 the consent of the pharmacy benefit manager unless the disclosure  
19 is:

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

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

22 (3) made to the commissioner or the attorney general  
23 in connection with an investigation authorized by this code or any  
24 other law.

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

1           SECTION 7. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2007.