

By: Callegari

H.B. No. 3454

A BILL TO BE ENTITLED

AN ACT

relating to contracts between governmental entities and pharmacy benefit managers.

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

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

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

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

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

(2) any compensation provided by a pharmaceutical manufacturer or labeler to the pharmacy benefit manager in relation to the program must be remitted to the commission for deposit to the credit of the general revenue fund, including compensation provided 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 lowest 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 Sec. 531.0746. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
24 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
25 designate as confidential any information the pharmacy benefit
26 manager is required to disclose to comply with Section 531.0741,
27 531.0742, 531.0743, 531.0744, or 531.0745.

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

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

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

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

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

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

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

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

25 (2) any compensation provided by a pharmaceutical
26 manufacturer or labeler to the pharmacy benefit manager in relation
27 to the program must be remitted to the department for deposit to the

1 credit of the general revenue fund, including compensation provided
2 for formulary management and drug-switch programs, educational
3 support, claims processing and pharmacy network fees that are
4 charged from retail pharmacies, and data sales fees.

5 Sec. 1001.077. SPECIALTY PHARMACY SERVICES. (a) In this
6 section:

7 (1) "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 (2) "Specialty pharmacy service" means a service
11 offered by a pharmacy benefit manager in relation to benefits that
12 involve chronic conditions, unusually high treatment costs, or
13 management of complex care issues. The term specifically includes
14 the provision of pharmaceutical benefits involving:

15 (A) injectable and infusion therapies;

16 (B) therapies with annual costs to the patient of
17 \$5,000 or more; and

18 (C) therapies requiring complex care.

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

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

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

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

9 Sec. 1001.078. MAIL ORDER PHARMACY SERVICES. (a) In this
10 section:

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

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

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

26 Sec. 1001.079. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS
27 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit

1 manager" means a person, other than a pharmacy or pharmacist, who
2 acts as an administrator in connection with pharmacy benefits.

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

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

14 (b) A contract with a pharmacy benefit manager entered into
15 with respect to any program under the jurisdiction of the
16 department must provide that the department, using an auditor
17 selected by the department, 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 Sec. 1001.081. 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 1001.076,
2 1001.077, 1001.078, 1001.079, or 1001.080.

3 (b) Information designated as confidential under this
4 section may not be disclosed by the department 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 3. Subchapter B, Chapter 1551, Insurance Code, is
13 amended by adding Sections 1551.068, 1551.069, 1551.070, 1551.071,
14 1551.072, and 1551.073 to read as follows:

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

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

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

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

9 Sec. 1551.069. SPECIALTY PHARMACY SERVICES. (a) In this
10 section:

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

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

21 (A) injectable and infusion therapies;

22 (B) therapies with annual costs to the patient of
23 \$5,000 or more; and

24 (C) therapies requiring complex care.

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

1 shall:

2 (1) pass through to the board of trustees for deposit
3 to the credit of the employees life, accident, and health insurance
4 and benefits 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 board of trustees on an
9 acquisition cost basis, which may include a dispensing fee, for all
10 specialty pharmacy prescriptions, based on actual inventory costs
11 or 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. 1551.070. 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 group benefits program that includes pharmacy
3 services must provide that the pharmacy benefit manager shall agree
4 to charge the board of trustees on an acquisition cost basis, which
5 may include a dispensing fee, for all prescriptions filled by a mail
6 order pharmacy, based on actual inventory costs or wholesale
7 acquisition cost.

8 Sec. 1551.071. 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 group benefits program must provide that the
16 pharmacy benefit manager may not charge the program an amount for a
17 brand retail claim payment or generic retail claim payment that is
18 more than the lowest amount the pharmacy benefit manager pays a
19 pharmacy in the pharmacy benefit manager's retail network for the
20 same claim.

21 Sec. 1551.072. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In
22 this section, "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 group benefits program must provide that the
2 board of trustees, using an auditor selected by the board of
3 trustees, may audit:

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

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

7 (3) the pharmacy benefit manager's utilization
8 management clinical criteria; and

9 (4) mail service purchasing invoices related to
10 benefits provided under the program.

11 Sec. 1551.073. 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 1551.068,
15 1551.069, 1551.070, 1551.071, or 1551.072.

16 (b) Information designated as confidential under this
17 section may not be disclosed by the board of trustees to any person
18 without the consent of the pharmacy benefit manager unless the
19 disclosure 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 4. Subchapter B, Chapter 1575, Insurance Code, is
26 amended by adding Sections 1575.057, 1575.058, 1575.059, 1575.060,
27 1575.061, and 1575.062 to read as follows:

1 Sec. 1575.057. TREATMENT OF CERTAIN REVENUE FROM
2 PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT
3 MANAGERS. (a) In this section, "pharmacy benefit manager" means a
4 person, other than a pharmacy or pharmacist, who acts as an
5 administrator in connection with pharmacy benefits. The term
6 includes an administrator subject to Chapter 4151 who administers
7 pharmacy benefits.

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

10 (1) with respect to any transaction with a
11 pharmaceutical manufacturer or labeler in relation to the program,
12 the pharmacy benefit manager represents the interests of the
13 program; and

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

22 Sec. 1575.058. SPECIALTY PHARMACY SERVICES. (a) In this
23 section:

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

1 pharmacy benefits.

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

7 (A) injectable and infusion therapies;

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

10 (C) therapies requiring complex care.

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

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

19 (2) agree to charge the trustee on an acquisition cost
20 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. 1575.059. 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 an administering
8 firm or other person, other than a pharmacy or pharmacist, who acts
9 as an administrator in connection with pharmacy benefits. The term
10 includes an administrator subject to Chapter 4151 who administers
11 pharmacy benefits.

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

19 Sec. 1575.060. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS
20 FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit
21 manager" means a person, other than a pharmacy or pharmacist, who
22 acts as an administrator in connection with pharmacy benefits. The
23 term includes an administrator subject to Chapter 4151 who
24 administers pharmacy benefits.

25 (b) A contract with a pharmacy benefit manager entered into
26 with respect to the group program must provide that the pharmacy
27 benefit manager may not charge the program an amount for a brand

1 retail claim payment or generic retail claim payment that is more
2 than the lowest amount the pharmacy benefit manager pays a pharmacy
3 in the pharmacy benefit manager's retail network for the same
4 claim.

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

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

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

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

17 (3) the pharmacy benefit manager's utilization
18 management clinical criteria; and

19 (4) mail service purchasing invoices related to
20 benefits provided under the program.

21 Sec. 1575.062. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
22 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
23 designate as confidential any information the pharmacy benefit
24 manager is required to disclose to comply with Section 1575.057,
25 1575.058, 1575.059, 1575.060, or 1575.061.

26 (b) Information designated as confidential under this
27 section may not be disclosed by the trustee to any person without

1 the consent of the pharmacy benefit manager unless the disclosure
2 is:

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

8 SECTION 5. Subchapter B, Chapter 1579, Insurance Code, is
9 amended by adding Sections 1579.056, 1579.057, 1579.058, 1579.059,
10 1579.060, and 1579.061 to read as follows:

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

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

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

24 (2) any compensation provided by a pharmaceutical
25 manufacturer or labeler to the pharmacy benefit manager in relation
26 to the program must be remitted to the trustee for deposit to the
27 credit of the Texas school employees uniform group coverage trust

1 fund, including compensation provided for formulary management and
2 drug-switch programs, educational support, claims processing and
3 pharmacy network fees that are charged from retail pharmacies, and
4 data sales fees.

5 Sec. 1579.057. SPECIALTY PHARMACY SERVICES. (a) In this
6 section:

7 (1) "Pharmacy benefit manager" means an administering
8 firm or other person, other than a pharmacy or pharmacist, who acts
9 as an administrator in connection with pharmacy benefits. The term
10 includes an administrator subject to Chapter 4151 who administers
11 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 the program that includes specialty pharmacy
23 services must provide that the pharmacy benefit manager shall:

24 (1) pass through to the trustee for deposit to the
25 credit of the Texas school employees uniform group coverage trust
26 fund 100 percent of any revenue associated with distribution of a
27 specialty pharmacy product paid by a pharmaceutical manufacturer or

1 labeler to the pharmacy benefit manager;

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

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

10 Sec. 1579.058. MAIL ORDER PHARMACY SERVICES. (a) In this
11 section:

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

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

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

1 cost.

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

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

14 Sec. 1579.060. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In
15 this section, "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 (b) A contract with a pharmacy benefit manager entered into
21 with respect to the program must provide that the trustee, using an
22 auditor selected by the trustee, may audit:

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

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

26 (3) the pharmacy benefit manager's utilization
27 management clinical criteria; and

1 (4) mail service purchasing invoices related to
2 benefits provided under the program.

3 Sec. 1579.061. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
4 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
5 designate as confidential any information the pharmacy benefit
6 manager is required to disclose to comply with Section 1579.056,
7 1579.057, 1579.058, 1579.059, or 1579.060.

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

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

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

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