

By: Hegar

S.B. No. 1834

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.