

1-1 By: Hegar S.B. No. 1834
1-2 (In the Senate - Filed March 9, 2007; March 22, 2007, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 23, 2007, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 23, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to treatment of pharmaceutical services provided through
1-9 specialty and mail order pharmacy services operated under contracts
1-10 between governmental entities and pharmacy benefit managers.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter B, Chapter 531, Government Code, is
1-13 amended by adding Sections 531.0746, 531.0747, and 531.0748 to read
1-14 as follows:

1-15 Sec. 531.0746. SPECIALTY PHARMACY SERVICES. (a) In this
1-16 section:

1-17 (1) "Pharmacy benefit manager" means a person, other
1-18 than a pharmacy or pharmacist, who acts as an administrator in
1-19 connection with pharmacy benefits.

1-20 (2) "Specialty pharmacy service" means a service
1-21 offered by a pharmacy benefit manager in relation to benefits that
1-22 involve chronic conditions, unusually high treatment costs, or
1-23 management of complex care issues. The term specifically includes
1-24 the provision of pharmaceutical benefits involving:

1-25 (A) injectable and infusion therapies;

1-26 (B) therapies with annual costs to the patient of
1-27 \$5,000 or more; and

1-28 (C) therapies requiring complex care.

1-29 (b) A contract with a pharmacy benefit manager entered into
1-30 with respect to any program under the jurisdiction of the
1-31 commission that includes specialty pharmacy services must provide
1-32 that the pharmacy benefit manager shall:

1-33 (1) pass through to the commission for deposit in the
1-34 general revenue fund 100 percent of any revenue associated with
1-35 distribution of a specialty pharmacy product paid by a
1-36 pharmaceutical manufacturer or labeler to the pharmacy benefit
1-37 manager;

1-38 (2) agree to charge the commission on an acquisition
1-39 cost basis, which may include a dispensing fee, for all specialty
1-40 pharmacy prescriptions, based on actual inventory costs or
1-41 wholesale acquisition cost; and

1-42 (3) provide case management for critical disease
1-43 conditions, as specified by the contract, and agree not to
1-44 incorporate the costs of the case management into the costs
1-45 assessed for drug ingredients for the specialty pharmacy product.

1-46 Sec. 531.0747. MAIL ORDER PHARMACY SERVICES. (a) In this
1-47 section:

1-48 (1) "Mail order pharmacy" means a pharmacy that is
1-49 licensed as a Class A or Class E pharmacy under Chapter 560,
1-50 Occupations Code, and that primarily delivers prescription drugs to
1-51 an enrollee through the United States Postal Service or a
1-52 commercial delivery service.

1-53 (2) "Pharmacy benefit manager" means a person, other
1-54 than a pharmacy or pharmacist, who acts as an administrator in
1-55 connection with pharmacy benefits.

1-56 (b) A contract with a pharmacy benefit manager entered into
1-57 with respect to any program under the jurisdiction of the
1-58 commission that includes pharmacy services must provide that the
1-59 pharmacy benefit manager shall agree to charge the commission on an
1-60 acquisition cost basis, which may include a dispensing fee, for all
1-61 prescriptions filled by a mail order pharmacy, based on actual
1-62 inventory costs or wholesale acquisition cost.

1-63 Sec. 531.0748. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
1-64 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may

designate as confidential any information the pharmacy benefit manager is required to disclose to comply with Section 531.0746 or 531.0747.

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

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

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

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

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

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

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

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

(A) injectable and infusion therapies;

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

(C) therapies requiring complex care.

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

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

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

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

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

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

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

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

(b) Information designated as confidential under this

3-1 section may not be disclosed by the department to any person without
3-2 the consent of the pharmacy benefit manager unless the disclosure
3-3 is:

- 3-4 (1) ordered by a court for good cause shown;
- 3-5 (2) made under seal in a court filing; or
- 3-6 (3) made to the commissioner of insurance or the
3-7 attorney general in connection with an investigation authorized by
3-8 this code, the Insurance Code, or any other law.

3-9 SECTION 3. Subchapter B, Chapter 1551, Insurance Code, is
3-10 amended by adding Sections 1551.073, 1551.074, and 1551.075 to read
3-11 as follows:

3-12 Sec. 1551.073. SPECIALTY PHARMACY SERVICES. (a) In this
3-13 section:

3-14 (1) "Pharmacy benefit manager" means an administering
3-15 firm or other person, other than a pharmacy or pharmacist, who acts
3-16 as an administrator in connection with pharmacy benefits. The term
3-17 includes an administrator subject to Chapter 4151 who administers
3-18 pharmacy benefits.

3-19 (2) "Specialty pharmacy service" means a service
3-20 offered by a pharmacy benefit manager in relation to benefits that
3-21 involve chronic conditions, unusually high treatment costs, or
3-22 management of complex care issues. The term specifically includes
3-23 the provision of pharmaceutical benefits involving:

- 3-24 (A) injectable and infusion therapies;
- 3-25 (B) therapies with annual costs to the patient of
3-26 \$5,000 or more; and
- 3-27 (C) therapies requiring complex care.

3-28 (b) A contract with a pharmacy benefit manager entered into
3-29 with respect to the group benefits program that includes specialty
3-30 pharmacy services must provide that the pharmacy benefit manager
3-31 shall:

3-32 (1) pass through to the board of trustees for deposit
3-33 to the credit of the employees life, accident, and health insurance
3-34 and benefits fund 100 percent of any revenue associated with
3-35 distribution of a specialty pharmacy product paid by a
3-36 pharmaceutical manufacturer or labeler to the pharmacy benefit
3-37 manager;

3-38 (2) agree to charge the board of trustees on an
3-39 acquisition cost basis, which may include a dispensing fee, for all
3-40 specialty pharmacy prescriptions, based on actual inventory costs
3-41 or wholesale acquisition cost; and

3-42 (3) provide case management for critical disease
3-43 conditions, as specified by the contract, and agree not to
3-44 incorporate the costs of the case management into the costs
3-45 assessed for drug ingredients for the specialty pharmacy product.

3-46 Sec. 1551.074. MAIL ORDER PHARMACY SERVICES. (a) In this
3-47 section:

3-48 (1) "Mail order pharmacy" means a pharmacy that is
3-49 licensed as a Class A or Class E pharmacy under Chapter 560,
3-50 Occupations Code, and that primarily delivers prescription drugs to
3-51 an enrollee through the United States Postal Service or a
3-52 commercial delivery service.

3-53 (2) "Pharmacy benefit manager" means an administering
3-54 firm or other person, other than a pharmacy or pharmacist, who acts
3-55 as an administrator in connection with pharmacy benefits. The term
3-56 includes an administrator subject to Chapter 4151 who administers
3-57 pharmacy benefits.

3-58 (b) A contract with a pharmacy benefit manager entered into
3-59 with respect to the group benefits program that includes pharmacy
3-60 services must provide that the pharmacy benefit manager shall agree
3-61 to charge the board of trustees on an acquisition cost basis, which
3-62 may include a dispensing fee, for all prescriptions filled by a mail
3-63 order pharmacy, based on actual inventory costs or wholesale
3-64 acquisition cost.

3-65 Sec. 1551.075. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
3-66 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
3-67 designate as confidential any information the pharmacy benefit
3-68 manager is required to disclose to comply with Section 1551.073 or
3-69 1551.074.

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

- 4-5 (1) ordered by a court for good cause shown;
 - 4-6 (2) made under seal in a court filing; or
 - 4-7 (3) made to the commissioner or the attorney general
- 4-8 in connection with an investigation authorized by this code or any
4-9 other law.

4-10 SECTION 4. Subchapter B, Chapter 1575, Insurance Code, is
4-11 amended by adding Sections 1575.062, 1575.063, and 1575.064 to read
4-12 as follows:

4-13 Sec. 1575.062. SPECIALTY PHARMACY SERVICES. (a) In this
4-14 section:

4-15 (1) "Pharmacy benefit manager" means an administering
4-16 firm or other person, other than a pharmacy or pharmacist, who acts
4-17 as an administrator in connection with pharmacy benefits. The term
4-18 includes an administrator subject to Chapter 4151 who administers
4-19 pharmacy benefits.

4-20 (2) "Specialty pharmacy service" means a service
4-21 offered by a pharmacy benefit manager in relation to benefits that
4-22 involve chronic conditions, unusually high treatment costs, or
4-23 management of complex care issues. The term specifically includes
4-24 the provision of pharmaceutical benefits involving:

- 4-25 (A) injectable and infusion therapies;
- 4-26 (B) therapies with annual costs to the patient of
4-27 \$5,000 or more; and
- 4-28 (C) therapies requiring complex care.

4-29 (b) A contract with a pharmacy benefit manager entered into
4-30 with respect to the group program that includes specialty pharmacy
4-31 services must provide that the pharmacy benefit manager shall:

4-32 (1) pass through to the trustee for deposit to the
4-33 credit of the retired school employees group insurance fund 100
4-34 percent of any revenue associated with distribution of a specialty
4-35 pharmacy product paid by a pharmaceutical manufacturer or labeler
4-36 to the pharmacy benefit manager;

4-37 (2) agree to charge the trustee on an acquisition cost
4-38 basis, which may include a dispensing fee, for all specialty
4-39 pharmacy prescriptions, based on actual inventory costs or
4-40 wholesale acquisition cost; and

4-41 (3) provide case management for critical disease
4-42 conditions, as specified by the contract, and agree not to
4-43 incorporate the costs of the case management into the costs
4-44 assessed for drug ingredients for the specialty pharmacy product.

4-45 Sec. 1575.063. MAIL ORDER PHARMACY SERVICES. (a) In this
4-46 section:

4-47 (1) "Mail order pharmacy" means a pharmacy that is
4-48 licensed as a Class A or Class E pharmacy under Chapter 560,
4-49 Occupations Code, and that primarily delivers prescription drugs to
4-50 an enrollee through the United States Postal Service or a
4-51 commercial delivery service.

4-52 (2) "Pharmacy benefit manager" means an administering
4-53 firm or other person, other than a pharmacy or pharmacist, who acts
4-54 as an administrator in connection with pharmacy benefits. The term
4-55 includes an administrator subject to Chapter 4151 who administers
4-56 pharmacy benefits.

4-57 (b) A contract with a pharmacy benefit manager entered into
4-58 with respect to the group program that includes pharmacy services
4-59 must provide that the pharmacy benefit manager shall agree to
4-60 charge the trustee on an acquisition cost basis, which may include a
4-61 dispensing fee, for all prescriptions filled by a mail order
4-62 pharmacy, based on actual inventory costs or wholesale acquisition
4-63 cost.

4-64 Sec. 1575.064. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
4-65 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
4-66 designate as confidential any information the pharmacy benefit
4-67 manager is required to disclose to comply with Section 1575.062 or
4-68 1575.063.

4-69 (b) Information designated as confidential under this

5-1 section may not be disclosed by the trustee to any person without
5-2 the consent of the pharmacy benefit manager unless the disclosure
5-3 is:

- 5-4 (1) ordered by a court for good cause shown;
- 5-5 (2) made under seal in a court filing; or
- 5-6 (3) made to the commissioner or the attorney general
5-7 in connection with an investigation authorized by this code or any
5-8 other law.

5-9 SECTION 5. Subchapter B, Chapter 1579, Insurance Code, is
5-10 amended by adding Sections 1579.061, 1579.062, and 1579.063 to read
5-11 as follows:

5-12 Sec. 1579.061. SPECIALTY PHARMACY SERVICES. (a) In this
5-13 section:

5-14 (1) "Pharmacy benefit manager" means an administering
5-15 firm or other person, other than a pharmacy or pharmacist, who acts
5-16 as an administrator in connection with pharmacy benefits. The term
5-17 includes an administrator subject to Chapter 4151 who administers
5-18 pharmacy benefits.

5-19 (2) "Specialty pharmacy service" means a service
5-20 offered by a pharmacy benefit manager in relation to benefits that
5-21 involve chronic conditions, unusually high treatment costs, or
5-22 management of complex care issues. The term specifically includes
5-23 the provision of pharmaceutical benefits involving:

- 5-24 (A) injectable and infusion therapies;
- 5-25 (B) therapies with annual costs to the patient of
5-26 \$5,000 or more; and
- 5-27 (C) therapies requiring complex care.

5-28 (b) A contract with a pharmacy benefit manager entered into
5-29 with respect to the program that includes specialty pharmacy
5-30 services must provide that the pharmacy benefit manager shall:

5-31 (1) pass through to the trustee for deposit to the
5-32 credit of the Texas school employees uniform group coverage trust
5-33 fund 100 percent of any revenue associated with distribution of a
5-34 specialty pharmacy product paid by a pharmaceutical manufacturer or
5-35 labeler to the pharmacy benefit manager;

5-36 (2) agree to charge the trustee on an acquisition cost
5-37 basis, which may include a dispensing fee, for all specialty
5-38 pharmacy prescriptions, based on actual inventory costs or
5-39 wholesale acquisition cost; and

5-40 (3) provide case management for critical disease
5-41 conditions, as specified by the contract, and agree not to
5-42 incorporate the costs of the case management into the costs
5-43 assessed for drug ingredients for the specialty pharmacy product.

5-44 Sec. 1579.062. MAIL ORDER PHARMACY SERVICES. (a) In this
5-45 section:

5-46 (1) "Mail order pharmacy" means a pharmacy that is
5-47 licensed as a Class A or Class E pharmacy under Chapter 560,
5-48 Occupations Code, and that primarily delivers prescription drugs to
5-49 an enrollee through the United States Postal Service or a
5-50 commercial delivery service.

5-51 (2) "Pharmacy benefit manager" means an administering
5-52 firm or other person, other than a pharmacy or pharmacist, who acts
5-53 as an administrator in connection with pharmacy benefits. The term
5-54 includes an administrator subject to Chapter 4151 who administers
5-55 pharmacy benefits.

5-56 (b) A contract with a pharmacy benefit manager entered into
5-57 with respect to the program that includes pharmacy services must
5-58 provide that the pharmacy benefit manager shall agree to charge the
5-59 trustee on an acquisition cost basis, which may include a
5-60 dispensing fee, for all prescriptions filled by a mail order
5-61 pharmacy, based on actual inventory costs or wholesale acquisition
5-62 cost.

5-63 Sec. 1579.063. PHARMACY BENEFIT MANAGERS: DESIGNATION OF
5-64 CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may
5-65 designate as confidential any information the pharmacy benefit
5-66 manager is required to disclose to comply with Section 1579.061 or
5-67 1579.062.

5-68 (b) Information designated as confidential under this
5-69 section may not be disclosed by the trustee to any person without

6-1 the consent of the pharmacy benefit manager unless the disclosure
6-2 is:

6-3 (1) ordered by a court for good cause shown;

6-4 (2) made under seal in a court filing; or

6-5 (3) made to the commissioner or the attorney general

6-6 in connection with an investigation authorized by this code or any
6-7 other law.

6-8 SECTION 6. The change in law made by this Act applies only
6-9 to a contract with a pharmacy benefit manager executed or renewed on
6-10 or after the effective date of this Act.

6-11 SECTION 7. This Act takes effect immediately if it receives
6-12 a vote of two-thirds of all the members elected to each house, as
6-13 provided by Section 39, Article III, Texas Constitution. If this
6-14 Act does not receive the vote necessary for immediate effect, this
6-15 Act takes effect September 1, 2007.

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