BILL ANALYSIS

H.B. 3270
By: Howard, Donna
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Federal Medicaid law only allows brand-name products to be dispensed when a physician hand writes “brand necessary” or "brand medically necessary" on the prescription. At the time this law was developed, no one had envisioned that our health care system would evolve to the point where prescriptions could be transmitted electronically. Currently, no accommodation is made to allow a health care provider submitting an electronic prescription to indicate the need for a brand-name drug.

H.B. 3270 requires the executive commissioner of the Health and Human Services Commission to conduct a study of current federal and state laws as they relate to electronic prescriptions under the Medicaid program and to report on changes needed to permit or facilitate e-prescribing and to develop and seek a waiver that provides an alternative to the requirement that a physician hand write "brand medically necessary" on a prescription covered by the Medicaid program to ensure there is a way to convey this information in an electronic prescription.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3270 requires the executive commissioner of the Health and Human Services Commission (HHSC) to conduct a study of state and federal laws relating to the electronic transmission of prescriptions in the Medicaid program and, not later than March 31, 2010, to submit a report regarding the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives.

H.B. 3270 requires the report to include an analysis of current state and federal laws relating to the electronic transmission of prescriptions in the Medicaid program and a description of any necessary changes in that law to enable or facilitate the electronic transmission of prescriptions under the program, including the electronic transmission of a dispensing directive requiring that the drug dispensed be brand-name or allowing the drug dispensed to be a generic equivalent.

H.B. 3270 requires the executive commissioner of HHSC to develop and seek a federal waiver or other federal authorization to implement an electronic alternative for certifying that a "brand necessary" or "brand medically necessary" prescription drug is medically necessary for a particular Medicaid recipient and requires the executive commissioner to consult with the Texas State Board of Pharmacy in developing the waiver or authorization.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.