

By: Howard of Travis

H.B. No. 3270

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the electronic transmission and certification of
3 prescriptions under the medical assistance program.

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

5 SECTION 1. STUDY. (a) The executive commissioner of the
6 Health and Human Services Commission shall conduct a study of state
7 and federal laws relating to the electronic transmission of
8 prescriptions in the medical assistance program under Chapter 32,
9 Human Resources Code.

10 (b) Not later than March 31, 2010, the executive
11 commissioner of the Health and Human Services Commission shall
12 submit a report to the governor, lieutenant governor, and speaker
13 of the house of representatives regarding the results of the study
14 conducted under Subsection (a) of this section. The following must
15 be included in the report:

16 (1) an analysis of current state and federal laws
17 relating to the electronic transmission of prescriptions in the
18 medical assistance program under Chapter 32, Human Resources Code;
19 and

20 (2) a description of any necessary changes in that law
21 to enable or facilitate the electronic transmission of
22 prescriptions under the program, including the electronic
23 transmission of a dispensing directive requiring that the drug
24 dispensed be brand-name or allowing the drug dispensed to be a

1 generic equivalent.

2 SECTION 2. WAIVER. The executive commissioner of the
3 Health and Human Services Commission shall develop and seek a
4 waiver or other appropriate authorization from the Centers for
5 Medicare and Medicaid Services or the United States secretary of
6 health and human services, as appropriate, authorized by 42 C.F.R.
7 Section 447.512(c) to implement an electronic alternative for
8 certifying that a "brand necessary" or "brand medically necessary"
9 prescription drug is medically necessary for a particular recipient
10 of medical assistance under Chapter 32, Human Resources Code. The
11 executive commissioner shall consult with the Texas State Board of
12 Pharmacy in developing the waiver or other authorization under this
13 section.

14 SECTION 3. EFFECTIVE DATE. This Act takes effect
15 immediately if it receives a vote of two-thirds of all the members
16 elected to each house, as provided by Section 39, Article III, Texas
17 Constitution. If this Act does not receive the vote necessary for
18 immediate effect, this Act takes effect September 1, 2009.