

AN ACT

relating to the distribution of a prescription drug and a study of the feasibility of establishing separate reimbursement under the Medicaid vendor drug program for certain pharmacy care management services.

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

SECTION 1. DEFINITION. In this Act, "pharmacy care management services" means services provided by a pharmacy to support patients receiving treatment or therapy through a specialty pharmacy drug or therapy and maximize adherence to the drug or therapy, including:

(1) significant caregiver and provider contact and education regarding the relevant disease, disease prevention and treatment, and counseling related to drug indications, benefits, risks, complications, and appropriate use of the prescribed drug or therapy;

(2) patient compliance services, including coordination of provider visits with delivery of the specialty drug or therapy to the provider, compliance with the dosing regimen, patient reminders, compilation of data, and assisting providers in the development of compliance programs; and

(3) tracking services, including developing ordering processes with a provider, screening referrals, and tracking a patient's weight for dosing requirements.

1 SECTION 2. STUDY. (a) The Health and Human Services
2 Commission shall study the feasibility of establishing separate
3 reimbursement rates under the Medicaid vendor drug program for
4 pharmacies that provide pharmacy care management services to
5 patients who are administered specialty pharmacy drugs, including
6 drugs indicated for the prophylaxis of respiratory syncytial virus,
7 blood factor, or any other biologic or therapy that requires
8 complex care.

9 (b) In conducting the study under Subsection (a) of this
10 section, the Health and Human Services Commission shall consult
11 with the Centers for Medicare and Medicaid Services and may
12 consider the adoption of pharmacy care management services
13 reimbursement for pharmacy services adopted by other state Medicaid
14 programs.

15 (c) The Health and Human Services Commission shall seek
16 information from specialty pharmacy providers or other sources
17 regarding the costs of providing pharmacy care management services.

18 (d) Not later than September 1, 2010, the Health and Human
19 Services Commission shall submit a written report of the results of
20 the study conducted under Subsection (a) of this section to the
21 legislature.

22 SECTION 3. NORMAL DISTRIBUTION CHANNEL. Subdivision (5),
23 Section 431.401, Health and Safety Code, is amended to read as
24 follows:

25 (5) "Normal distribution channel" means a chain of
26 custody for a prescription drug, either directly or by drop
27 shipment, from the manufacturer of the prescription drug, the

1 manufacturer to the manufacturer's co-licensed product partner,
2 the manufacturer to the manufacturer's third-party logistics
3 provider, or the manufacturer to the manufacturer's exclusive
4 distributor, to:

5 (A) a pharmacy to:

6 (i) a patient; or

7 (ii) another designated person authorized
8 by law to dispense or administer the drug to a patient;

9 (B) an authorized distributor of record to:

10 (i) a pharmacy to a patient; or

11 (ii) another designated person authorized
12 by law to dispense or administer the drug to a patient;

13 (C) an authorized distributor of record to a
14 wholesale distributor licensed under this chapter to another
15 designated person authorized by law to administer the drug to a
16 patient;

17 (D) an authorized distributor of record to a
18 pharmacy warehouse to the pharmacy warehouse's intracompany
19 pharmacy;

20 (E) [~~(D)~~] a pharmacy warehouse to the pharmacy
21 warehouse's intracompany pharmacy or another designated person
22 authorized by law to dispense or administer the drug to a patient;

23 (F) [~~(E)~~] a person authorized by law to prescribe
24 a prescription drug that by law may be administered only under the
25 supervision of the prescriber; or

26 (G) [~~(F)~~] an authorized distributor of record to
27 one other authorized distributor of record to a licensed

1 practitioner for office use.

2 SECTION 4. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN
3 WHOLESALE DISTRIBUTORS. Section 431.4031, Health and Safety Code,
4 is amended to read as follows:

5 Sec. 431.4031. EXEMPTION FROM CERTAIN PROVISIONS FOR
6 CERTAIN WHOLESALE DISTRIBUTORS. (a) A wholesale distributor that
7 distributes prescription drugs that are medical gases or a
8 wholesale distributor that is a manufacturer or a third-party
9 logistics provider on behalf of a manufacturer is exempt from
10 Sections 431.404(a)(5) and (6), (b), and (c), 431.4045(2), 431.405,
11 431.407, and 431.408.

12 (b) A state agency or a political subdivision of this state
13 that distributes prescription drugs using federal or state funding
14 to nonprofit health care facilities or local mental health or
15 mental retardation authorities for distribution to a pharmacy,
16 practitioner, or patient is exempt from Sections 431.405(b),
17 431.407, 431.408, 431.412, and 431.413.

18 (c) The executive commissioner of the Health and Human
19 Services Commission by rule may exempt specific purchases of
20 prescription drugs by state agencies and political subdivisions of
21 this state if the executive commissioner determines that the
22 requirements of this subchapter would result in a substantial cost
23 to the state or a political subdivision of the state.

24 SECTION 5. RULES. As soon as practicable after the
25 effective date of this Act, the executive commissioner of the
26 Health and Human Services Commission shall adopt, modify, or repeal
27 rules as necessary to implement the changes in law made by this Act

1 to Chapter 431, Health and Safety Code.

2 SECTION 6. EFFECTIVE DATE. This Act takes effect
3 immediately if it receives a vote of two-thirds of all the members
4 elected to each house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary for
6 immediate effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1645 passed the Senate on May 7, 2009, by the following vote: Yeas 31, Nays 0; May 30, 2009, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 30, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1645 passed the House, with amendment, on May 27, 2009, by the following vote: Yeas 137, Nays 11, one present not voting; May 30, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor