

By: West

S.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the establishment of a program to provide prescribers  
3 with evidence-based information about pharmaceuticals; assessing a  
4 fee; providing penalties.

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

6 SECTION 1. It is the intent of the legislature to ensure  
7 that health care professionals have balanced and unbiased  
8 evidence-based information readily available in order to ensure the  
9 highest quality prescribing decisions are made for the citizens of  
10 this state, which will improve health outcomes and reduce  
11 unnecessary costs.

12 SECTION 2. Chapter 531, Government Code, is amended by  
13 adding Subchapter Q to read as follows:

14 SUBCHAPTER Q. EVIDENCE-BASED PRESCRIBER EDUCATION SERVICE

15 Sec. 531.651. DEFINITIONS. In this subchapter:

16 (1) "Prescribed product" includes a drug or device as  
17 defined in Section 201 of the Federal Food, Drug, and Cosmetic Act  
18 (21 U.S.C. Section 321) and a biological product as defined in  
19 Section 351 of the Public Health Service Act (42 U.S.C. Section  
20 262).

21 (2) "State health care program" means a program for  
22 which the state purchases prescribed products, including the state  
23 Medicaid program, a state pharmaceutical assistance program, or a  
24 program for state employees and their dependents, individuals under

1 the supervision of corrections, or state retirees and their  
2 dependents.

3 Sec. 531.652. ESTABLISHMENT OF EDUCATION SERVICE. (a) The  
4 executive commissioner, in collaboration with an institution of  
5 higher education in this state, shall develop an evidence-based  
6 prescription education service designed to provide health care  
7 professionals who are licensed to prescribe or dispense prescribed  
8 products with information and education from a noncommercial source  
9 on the comparative efficacy, safety, and cost-effectiveness of  
10 commonly used prescribed products.

11 (b) In designing the service, the executive commissioner  
12 shall consult with appropriate health care professionals or  
13 organizations knowledgeable about the practice of medicine and  
14 continuing medical education.

15 (c) The education service shall be geared toward assisting  
16 health care professionals who are licensed to prescribe or dispense  
17 prescribed products with making appropriate pharmaceutical  
18 recommendations.

19 Sec. 531.653. REQUIREMENTS FOR EDUCATION SERVICE. (a) The  
20 education service established by the executive commissioner under  
21 Section 531.652 shall conduct in-person outreach and education  
22 sessions that are:

23 (1) made available to health care professionals who  
24 participate in, contract with, or are reimbursed by state-funded  
25 health care programs;

26 (2) made available to health care professionals in  
27 their place of work;

1           (3) facilitated by qualified and appropriately  
2 trained clinician-educators; and

3           (4) conducted on a one-to-one basis, whenever  
4 practicable.

5           (b) The service may also provide education to other health  
6 care professionals as funding permits or for a fee.

7           (c) The educational materials used by the education service  
8 must be based on a balanced, clinically relevant, and comprehensive  
9 review of evidence that is accepted within the practice of  
10 medicine, including scientific research that conforms to the  
11 generally accepted standards of experimental design, data  
12 collection, analysis, and interpretation with the purpose of  
13 providing unbiased and objective continuing education on the  
14 comparative efficacy, safety, and cost-effectiveness of  
15 medications.

16           (d) The education service may use materials developed by a  
17 medical school, an academic medical center, a school of pharmacy, a  
18 medical society, a research institute, or another publicly  
19 sponsored prescriber education service.

20           Sec. 531.654. RULES OF EDUCATION SERVICE. (a) The  
21 executive commissioner shall adopt the rules necessary to implement  
22 this subchapter.

23           (b) The rules adopted under this subchapter must establish:

24           (1) minimum clinical and educational qualifications  
25 for prescriber educators employed by or under contract with the  
26 education service;

27           (2) required training for educators;

1           (3) a code of conduct governing the behavior of  
2 educators in their interactions with health care professionals; and

3           (4) conflict of interest guidelines for educators and  
4 others involved in advising, developing, and administering the  
5 service.

6           Sec. 531.655. FEE. (a) Each wholesale distributor of  
7 prescription drugs that is licensed under Subchapter N, Chapter  
8 431, Health and Safety Code, that employs, directs, or utilizes one  
9 or more prescription marketing representatives in this state to  
10 market the distributor's prescription drugs shall pay to the  
11 commission an annual fee in the amount of \$2,500.

12           (b) The fee collected by the commission under this section  
13 shall be deposited to the credit of the general revenue fund and may  
14 be appropriated only for the education service established under  
15 this subchapter.

16           (c) A wholesale distributor that fails to pay the fee  
17 required by this section is subject to disciplinary action by the  
18 Department of State Health Services under Section 431.414, Health  
19 and Safety Code, as if the distributor violated Subchapter N,  
20 Chapter 431, Health and Safety Code.

21           Sec. 531.656. COMMISSION DUTIES. The commission shall seek  
22 and take all necessary actions to receive federal financial  
23 participation for any academic detailing provided through the state  
24 Medicaid program at the administrative matching rate of 50 percent.

25           Sec. 531.657. GIFTS AND GRANTS. The executive commissioner  
26 may seek grants and financial gifts from nonprofit charitable  
27 foundations to cover planning, development, and the ongoing

1 operation of the education service provided under this subchapter.

2 Sec. 531.658. REPORT. The executive commissioner shall  
3 present an annual report on the development of the education  
4 service to:

5 (1) the presiding officer of each house of the  
6 legislature; and

7 (2) the chair of each committee in the legislature  
8 with primary jurisdiction over the commission.

9 SECTION 3. (a) Not later than January 1, 2010, the  
10 executive commissioner shall adopt the rules required by Subchapter  
11 Q, Chapter 531, Government Code, as added by this Act.

12 (b) Not later than September 1, 2010, the executive  
13 commissioner, in collaboration with an institution of higher  
14 education in this state, shall establish the education service as  
15 required by Subchapter Q, Chapter 531, Government Code, as added by  
16 this Act.

17 (c) Notwithstanding Subchapter Q, Chapter 531, Government  
18 Code, as added by this Act, a wholesale distributor is not required  
19 to pay the fee required under Subchapter Q until January 1, 2010.

20 SECTION 4. This Act takes effect September 1, 2009.