

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-09
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SENATE BILL 1645 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Leticia Vandi Putte
SEN. VAN DE PUTTE

BL Hopkins II
Rep. HOPKIN

Duncan
SEN. DUNCAN

Rep. Frost
Rep. FROST

Robt L. Nichols
SEN NICHOLS

Wayne Smith
Rep. WAYNE SMITH

Sen. Nelson
SEN. NELSON

Rep. Winford
Rep. WINFORD

Zaffirini
On the part of the Senate
SEN. ZAFFIRINI

Rep. Gonzalez-Torres
On the part of the House
Rep. GONZALEZ-TORRES

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1645

A BILL TO BE ENTITLED

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.

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

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

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

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

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

(5) "Normal distribution channel" means a chain of custody for a prescription drug, either directly or by drop shipment, from the manufacturer of the prescription drug, the manufacturer to the manufacturer's co-licensed product partner, the manufacturer to the manufacturer's third-party logistics provider, or the manufacturer to the manufacturer's exclusive distributor, to:

(A) a pharmacy to:

(i) a patient; or

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

(B) an authorized distributor of record to:

(i) a pharmacy to a patient; or

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

(C) an authorized distributor of record to a

wholesale distributor licensed under this chapter to another designated person authorized by law to administer the drug to a patient;

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

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

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

(G) [~~(F)~~] an authorized distributor of record to one other authorized distributor of record to a licensed practitioner for office use.

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

Sec. 431.4031. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN WHOLESALERS. (a) A wholesaler that distributes prescription drugs that are medical gases or a wholesaler that is a manufacturer or a third-party

logistics provider on behalf of a manufacturer is exempt from Sections 431.404(a)(5) and (6), (b), and (c), 431.4045(2), 431.405, 431.407, and 431.408.

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

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

SECTION 5. RULES. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt, modify, or repeal rules as necessary to implement the changes in law made by this Act to Chapter 431, Health and Safety Code.

SECTION 6. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39,

S.B. No. 1645

Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Bill 1645
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Definition of "pharmacy care management services."

SECTION 2. Relating to a study and report by the Health and Human Services Commission.

No equivalent provision.

No equivalent provision.

HOUSE VERSION

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

SECTION ____. Amends Section 431.401(5), Health and Safety Code, relating to wholesale distributors of prescription drugs, to include, within the definition of "normal distribution channel," a chain of custody for a prescription drug, either directly or by drop shipment, from the manufacturer of the prescription drug, the manufacturer to the manufacturer's co-licensed product partner, the manufacturer to the manufacturer's third-party logistics provider, or the manufacturer to the manufacturer's exclusive distributor, to an authorized distributor of record to a licensed wholesale distributor to another designated person authorized by law to *dispense or administer* the drug to a patient.

SECTION ____. Amends Section 431.4031, Health and Safety Code, to provide that a state agency or a political subdivision that distributes prescription drugs using federal or state funding to nonprofit health care facilities or local mental health or mental retardation authorities for distribution to a pharmacy, practitioner, or patient is exempt from certain provisions relating to wholesale distributors of prescription drugs and setting qualifications for a distributor's license, requiring the submission of criminal history record information to the

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

SECTION 3. Same as House version, except confines the definition to a chain of custody...to an authorized distributor of record to a licensed wholesale distributor to another designated person authorized by law to *administer* the drug to a patient.

SECTION 4. Same as House version, except adds subparagraph (c) to amend 431.4031, Health and Safety Code to provide that the executive commissioner of Health and Human Services may by rule exempt specific purchases of prescription drugs by state agencies and/or political subdivisions of this state, if the Executive Commissioner determines that the requirements of this subchapter would result in a substantial cost to the state or political subdivision of the state.

Senate Bill 1645
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Department of Public Safety, requiring the distributor's provision of a bond or other security, requiring a pedigree for each prescription drug for human consumption that leaves the normal distribution channel and goes to another person, and establishing required pedigree contents.

SECTION __. Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the bill's effective date, to adopt, modify, or repeal rules as necessary to implement the changes in law made by the bill to Chapter 431, Health and Safety Code.

SECTION 3. Same as Senate version.

SECTION 5. Same as House version.

SECTION 6. Same as Senate version.

No equivalent provision.

SECTION 3. Effective date.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1645 by Van de Putte (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.), Conference Committee Report

No significant fiscal implication to the State is anticipated.

The bill would make changes to Chapter 431 of the Health and Safety Code related to distribution of prescription drugs. It would also require the Health and Human Services Commission to study and report on the feasibility of establishing separate reimbursement under the Medicaid program for pharmacy care management services. The report would be due to the legislature on September 1, 2010. The bill would take effect immediately if it receives a vote of two-thirds of the members of each house; if not, it takes effect September 1, 2009.

It is assumed that HHSC can adopt rules as needed and complete the study and report using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: JOB, CL, MB