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well

AN ACT

1  
2 relating to the distribution of a prescription drug and a study of  
3 the feasibility of establishing separate reimbursement under the  
4 Medicaid vendor drug program for certain pharmacy care management  
5 services.

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

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

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

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

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

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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

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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

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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.

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David Newkumst  
President of the Senate

Jim Strawn  
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. \_\_\_\_\_

Patry Spaw  
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. \_\_\_\_\_

Robert Hamey  
Chief Clerk of the House

Approved:

19 JUN '09

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2 PM O'CLOCK

JUN 19 2009

Colby Hunter III