

BILL ANALYSIS

Senate Research Center
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S.B. 1706
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many busy doctors rely on pharmaceutical sales representatives to provide them with information on drugs. Due to the profit-driven inclinations of the pharmaceutical industry, sales representatives may not always provide unbiased information to doctors about medications. Marketing strategies of pharmaceutical companies incline sales representatives to promote their latest, patented, and most expensive medications. These medications are often not the most effective drugs on the market.

The effects of physicians prescribing more expensive and potentially less effective medications is reflected in the rising costs of health care. A prescriber education program is a way to help doctors make informed decisions about prescriptions and reduce health care costs in Texas. Doctors who prescribe more effective and possibly less expensive medications will help lessen the burden of health care costs on Texans.

This bill would create an evidence-based prescriber education program, also known as academic detailing, that would train pharmacists, nurses, and other health professionals to visit physicians in their offices to discuss drug choices and patient care practices. These academic detailers provide unbiased, non-commercial summaries of scientifically-reviewed evidence to help doctors prescribe the safest and most effective drugs. Detailers make information readily available to physicians and will meet with the physicians one-to-one whenever possible. This program would be funded through an annual \$2,500 fee on drug distributors who employ marketers in Texas.

As proposed, S.B. 1706 amends current law relating to the establishment of a program to provide prescribers with evidence-based information about pharmaceuticals, assesses a fee, and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 531.654, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth the intent of the legislature.

SECTION 2. Amends Chapter 531, Government Code, by adding Subchapter Q, as follows:

SUBCHAPTER Q. EVIDENCE-BASED PRESCRIBER EDUCATION SERVICE

Sec. 531.651. DEFINITIONS. Defines "prescribed product" and "state health care program."

Sec. 531.652. ESTABLISHMENT OF EDUCATION SERVICE. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), in collaboration with an institution of higher education in this state, to develop an evidence-based prescription education service designed to provide health care professionals who are licensed to prescribe or dispense prescribed products with information and education from a noncommercial source on the comparative efficacy, safety, and cost-effectiveness of commonly used prescribed products.

(b) Requires the executive commissioner, in designing the service, to consult with appropriate health care professionals or organizations knowledgeable about the practice of medicine and continuing medical education.

(c) Requires that the education service be geared toward assisting health care professionals who are licensed to prescribe or dispense prescribed products with making appropriate pharmaceutical recommendations.

Sec. 531.653. REQUIREMENTS FOR EDUCATION SERVICE. (a) Requires that the education service established by the executive commissioner under Section 531.652 conduct in-person outreach and education sessions that are made available to health care professionals who participate in, contract with, or are reimbursed by state-funded health care programs; made available to health care professionals in their place of work; facilitated by qualified and appropriately trained clinician-educators; and conducted on a one-to-one basis, whenever practicable.

(b) Authorizes the service to also provide education to other health care professionals as funding permits or for a fee.

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

(d) Authorizes the education service to use materials developed by a medical school, an academic medical center, a school of pharmacy, a medical society, a research institute, or another publicly sponsored prescriber education service.

Sec. 531.654. RULES OF EDUCATION SERVICE. (a) Requires the executive commissioner to adopt the rules necessary to implement this subchapter.

(b) Requires that the rules adopted under this subchapter establish minimum clinical and educational qualifications for prescriber educators employed by or under contract with the education service, required training for educators, a code of conduct governing the behavior of educators in their interactions with health care professionals, and conflict of interest guidelines for educators and others involved in advising, developing, and administering the service.

Sec. 531.655. FEE. (a) Requires each wholesale distributor of prescription drugs that is licensed under Subchapter N (Wholesale Distributors of Prescription Drugs), Chapter 431 (Texas Food and Drug Cosmetic Act), Health and Safety Code, that employs, directs, or utilizes one or more prescription marketing representatives in this state to market the distributor's prescription drugs to pay to the Health and Human Services Commission (HHSC) an annual fee in the amount of \$2,500.

(b) Requires that the fee collected by HHSC under this section be deposited to the credit of the general revenue fund and authorizes the funds to be appropriated only for the education service established under this subchapter.

(c) Provides that a wholesale distributor that fails to pay the fee required by this section is subject to disciplinary action by the Department of State Health Services under Section 431.414 (Refusal to License; Suspension or Revocation of License), Health and Safety Code, as if the distributor violated Subchapter N, Chapter 431, Health and Safety Code.

Sec. 531.656. COMMISSION DUTIES. Requires HHSC to seek and take all necessary actions to receive federal financial participation for any academic detailing provided through the state Medicaid program at the administrative matching rate of 50 percent.

Sec. 531.657. GIFTS AND GRANTS. Authorizes the executive commissioner to seek grants and financial gifts from nonprofit charitable foundations to cover planning, development, and the ongoing operation of the education service provided under this subchapter.

Sec. 531.658. REPORT. Requires the executive commissioner to present an annual report on the development of the education service to the presiding officer of each house of the legislature and the chair of each committee in the legislature with primary jurisdiction over HHSC.

SECTION 3. (a) Requires the executive commissioner, not later than January 1, 2010, to adopt the rules required by Subchapter Q, Chapter 531, Government Code, as added by this Act.

(b) Requires the executive commissioner, in collaboration with an institution of higher education in this state, not later than September 1, 2010, to establish the education service as required by Subchapter Q, Chapter 531, Government Code, as added by this Act.

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

SECTION 4. Effective date: September 1, 2009.