

- SUBJECT:** E-prescribing of “brand necessary” drugs in the state Medicaid program
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 8 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Gonzales, Laubenberg, McReynolds, Zerwas
- 0 nays
- 3 absent — Hopson, S. King, Truitt
- WITNESSES:** For — James Merryman, Texas Medical Association; (*Registered, but did not testify:* Kathy Barber, Texas Federation of Drug Stores; Marisa Finley, Scott & White Center for Healthcare Policy; Katherine Zackel, Texans Care for Children)
- Against — None
- On — Kathleen Costello and Kay Ghahremani, Health and Human Services Commission
- BACKGROUND:** Pharmacists have the discretion to fill a prescription with a generic medication unless the prescription is labeled “brand necessary” or “brand medically necessary.” For a pharmacist to receive Medicaid reimbursement for the full cost of a name-brand drug, a Medicaid prescription must contain the hand-written order of a doctor that indicates that the brand is medically necessary.
- DIGEST:** HB 3270 would require the executive commissioner of the Health and Human Services Commission (HHSC) to conduct a study of state and federal laws relating to the electronic transmission of Medicaid prescriptions. By March 31, 2010, the executive commissioner would submit a report to certain state and legislative officials regarding the results of the study. The study would include an analysis of laws relevant to electronically transmitted prescriptions and the changes in law that would be necessary to enable electronically transmitted Medicaid prescriptions to indicate if the dispensing of a brand-name drug was required or if a generic drug was allowed.

The executive commissioner of HHSC, in consultation with the Texas State Board of Pharmacy, would seek a waiver from the Centers for Medicare and Medicaid Services or the U.S. secretary of health and human services to implement an electronic alternative for certifying that a drug was “brand medically necessary” for a Medicaid patient.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.