

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 489

5 By: Senators C. Tucker, K. Hammer  
6 By: Representative Achor  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING MAXIMUM ALLOWABLE  
10 COST LISTS; TO DEFINE A SIMILARLY SITUATED PHARMACY;  
11 TO CLARIFY HOW A PHARMACY BENEFITS MANAGER PROVIDED  
12 ITS MAXIMUM ALLOWABLE COST LIST TO A PHARMACY; TO  
13 ESTABLISH A PRIVATE RIGHT OF ACTION FOR A PHARMACY OR  
14 PHARMACIST REGARDING VIOLATIONS INVOLVING MAXIMUM  
15 ALLOWABLE COST LISTS; AND FOR OTHER PURPOSES.  
16  
17

## Subtitle

18 TO AMEND THE LAW CONCERNING MAXIMUM  
19 ALLOWABLE COST LISTS TO DEFINE A  
20 SIMILARLY SITUATED PHARMACY, CLARIFY HOW  
21 A PHARMACY BENEFITS MANAGER PROVIDED ITS  
22 MAXIMUM ALLOWABLE COST LIST, AND  
23 ESTABLISH A PRIVATE RIGHT OF ACTION.  
24  
25  
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code § 17-92-507(a), concerning the definitions  
30 regarding Maximum Allowable Cost Lists, is amended to add an additional  
31 subdivision to read as follows:

32 (10) "Similarly situated pharmacy" means a pharmacy dispensing  
33 the same prescription drug within ten (10) days of the dispensation of the  
34 successful appealing pharmacy and that is provided a reimbursement by a  
35 pharmacy benefits manager within five percent (5%) of the successful  
36 appealing pharmacy.



1  
2 SECTION 2. Arkansas Code § 17-92-507(c)(1), concerning the  
3 requirements on a pharmacy benefits manager regarding Maximum Allowable Cost  
4 Lists, is amended to read as follows:

5 (1)(A) Provide access to its Maximum Allowable Cost List to each  
6 pharmacy subject to the Maximum Allowable Cost List.

7 (B) The Maximum Allowable Cost List of the pharmacy  
8 benefits manager shall be provided as a list or data set that allows a  
9 pharmacy to observe and discern all drugs on the list or data set similar to  
10 the national average drug acquisition cost list;

11  
12 SECTION 3. Arkansas Code § 17-92-507(c)(4)(C)(i)(d), concerning the  
13 requirements on a pharmacy benefits manager regarding Maximum Allowable Cost  
14 Lists, is amended to read as follows:

15 (d) Make the change under subdivision  
16 (c)(4)(C)(i)(a) of this section effective for each similarly situated  
17 pharmacy ~~as defined by the payor~~ subject to the Maximum Allowable Cost List;  
18

19 SECTION 4. Arkansas Code § 17-92-507(g), concerning the penalties for  
20 violations related to Maximum Allowable Cost Lists, is amended to add an  
21 additional subdivision to read as follows:

22 (3)(A) A pharmacy or pharmacist shall have a private right of  
23 action to enforce violations of this section under the Deceptive Trade  
24 Practices Act, § 4-88-101 et seq., the Arkansas Pharmacy Benefits Manager  
25 Licensure Act, § 23-92-501 et seq., and the Trade Practices Act, § 23-66-201  
26 et seq.

27 (B) The private right of action described under  
28 subdivision (g)(3)(A) of this section shall not be extinguished or abridged  
29 in any way, by contract or otherwise.