

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 943 Session of 2019

INTRODUCED BY GAYDOS, RAPP, BARRAR, BERNSTINE, BROWN, SCHLEGEL CULVER, DeLUCA, HERSHEY, KAUFFMAN, KEEFER, MILLARD, B. MILLER, MIZGORSKI, MOUL, MULLINS, PASHINSKI, PICKETT, PYLE, SAINATO, SCHWEYER, SIMS, STRUZZI, STURLA, TOEPEL, WHEELAND, LONGIETTI, GLEIM, KNOWLES, CIRESI, BURNS, DEASY, MATZIE, SCHMITT, EVERETT, KLUNK, READSHAW, GREINER, DUSH, SAYLOR, SCHLOSSBERG, HEFFLEY, RIGBY, McNEILL, OWLETT, MASSER, ISAACSON, QUINN, WILLIAMS, NEILSON, WENTLING, TOOHIL, WARREN, GABLER, T. DAVIS, SOLOMON AND HARKINS, APRIL 29, 2019

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 29, 2020

AN ACT

1 Providing for consumer prescription drug pricing disclosure and
2 pharmacy freedom to communicate.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Consumer
7 Prescription Drug Pricing and Freedom Disclosure Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Contract." A contract administered by a ~~pharmacy benefits~~ <--
13 ~~manager~~ PHARMACY BENEFIT MANAGER or pharmacy services <--
14 administration organization.

1 "Covered entity." A contract holder or policy holder  
2 providing pharmacy benefits to a covered individual under a  
3 health insurance policy pursuant to a contract administered by a  
4 ~~pharmacy benefits manager~~ PHARMACY BENEFIT MANAGER. <--

5 "Covered individual." A member, participant, enrollee or  
6 beneficiary of a covered entity who is provided health coverage  
7 by the covered entity. The term includes a dependent or other  
8 person provided health coverage through the policy or contract  
9 of a covered individual.

10 "Health insurance policy." A policy, subscriber contract,  
11 certificate or plan that provides prescription drug coverage.  
12 The term includes both comprehensive and limited benefit health  
13 policies.

14 "Pharmacist." As defined in section 2(10) of the act of  
15 September 27, 1961 (P.L.1700, No.699), known as the Pharmacy  
16 Act.

17 "Pharmacy." As defined in section 2(12) of the Pharmacy Act.

18 ~~"Pharmacy benefits management."~~ "PHARMACY BENEFIT <--  
19 MANAGEMENT." Any of the following:

20 (1) Procurement of prescription drugs at a negotiated  
21 contracted rate for distribution within this Commonwealth to  
22 covered individuals.

23 (2) Administration or management of prescription drug  
24 benefits provided by a covered entity for the benefit of  
25 covered individuals.

26 (3) Administration of pharmacy benefits, including:

27 (i) Operating a mail-service pharmacy.

28 (ii) Claims processing.

29 (iii) Retail pharmacy network management.

30 (iv) Paying claims to pharmacies for prescription

1 drugs dispensed to covered individuals by a retail,  
2 specialty or mail-order pharmacy.

3 (v) Developing and managing a clinical formulary,  
4 utilization management and quality assurance programs.

5 (vi) Rebate contracting and administration.

6 (vii) Managing a patient compliance, therapeutic  
7 intervention and generic substitution program.

8 (viii) Operating a disease management program.

9 (ix) Setting pharmacy reimbursement pricing and  
10 methodologies, including maximum allowable cost, and  
11 determining single or multiple source drugs.

12 ~~"Pharmacy benefits manager."~~ "PHARMACY BENEFIT MANAGER." A <--  
13 person, business or other entity that performs ~~pharmacy benefits~~<--  
14 ~~management~~ PHARMACY BENEFIT MANAGEMENT FOR COVERED ENTITIES. THE <--  
15 TERM DOES NOT INCLUDE AN ENTITY THAT HOLDS A VALID LICENSE BY  
16 THE INSURANCE DEPARTMENT WITH ACCIDENT AND HEALTH AUTHORITY TO  
17 ISSUE A HEALTH INSURANCE POLICY AND GOVERNED UNDER ANY OF THE  
18 FOLLOWING:

19 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS  
20 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND  
21 ARTICLE XXIV OF THAT ACT.

22 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),  
23 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

24 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN  
25 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES  
26 PLAN CORPORATIONS).

27 "Pharmacy services administration organization." A person,  
28 business or other entity that performs any of the following:

29 (1) Negotiates and contracts with managed care  
30 organizations or pharmacy benefit managers on behalf of their

1 pharmacy members.

2 (2) Negotiates reimbursement rates, payment and audit  
3 terms on behalf of their pharmacy members.

4 (3) ~~Payment collection or reconciliation on behalf of~~ <--  
5 ~~their pharmacy members.~~ PROVIDES PAYMENT COLLECTION OR <--  
6 RECONCILIATION SERVICES ON BEHALF OF THEIR PHARMACY MEMBERS.

7 Section 3. Disclosure of prescription drug costs.

8 (a) Information to covered individual.--A pharmacy or  
9 pharmacist shall have the right to provide a covered individual  
10 with information concerning the cost of a prescription drug,  
11 including the individual's cost share.

12 (b) No prohibition or penalization.--A pharmacy, pharmacist  
13 or contracting agent of a pharmacy or pharmacist may not be  
14 prohibited from or penalized by a ~~pharmacy benefits manager~~ <--  
15 PHARMACY BENEFIT MANAGER or pharmacy services administration <--  
16 organization for discussing the information under subsection  
17 (a), disclosing the availability of therapeutically equivalent  
18 alternative medications or selling to the covered individual a  
19 more affordable alternative if an affordable alternative is  
20 available.

21 ~~Section 4. Disclosure of contract information.~~ <--

22 (a) ~~Disclosure authorized. A pharmacy benefits manager or~~  
23 ~~pharmacy services administration organization shall not~~  
24 ~~prohibit, restrict or limit written or oral disclosure of~~  
25 ~~contract information by a pharmacist or pharmacy to any State,~~  
26 ~~county or municipal official or before any State, county or~~  
27 ~~municipal committee, body or proceeding.~~

28 (b) ~~Penalty prohibited. A pharmacy benefits manager or~~  
29 ~~pharmacy services administration organization shall not penalize~~  
30 ~~or restrict a pharmacist or pharmacy for any disclosure under~~

1 ~~subsection (a).~~

2 Section 5 4. Effective date.

<--

3 This act shall take effect immediately.