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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO INSURANCE -- PHARMACY FREEDOM OF CHOICE -- FAIR
COMPETITION AND PRACTICES

Introduced By: Representatives Kislak, Stewart, Speakman, Ajello, McGaw, Potter,
Cruz, Morales, and Tanzi

Date Introduced: February 28, 2024

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-29.1-7 of the General Laws in Chapter 27-29.1 entitled "Pharmacy
2 Freedom of Choice — Fair Competition and Practices" is hereby amended to read as follows:

3 **27-29.1-7. Regulation of pharmacy benefits managers.**

4 (a) Pharmacy benefits managers shall be included within the definition of third-party
5 administrator under chapter 20.7 of this title and shall be regulated as such. The annual report filed
6 by third-party administrators with the department of business regulation shall include: contractual
7 language that provides a complete description of the financial arrangements between the third-party
8 administrator and each of the insurers covering benefit contracts delivered in Rhode Island; and if
9 the third-party administrator is owned by or affiliated with another entity or entities, it shall include
10 an organization chart and brief description that shows the relationships among all affiliates within
11 a holding company or otherwise affiliated. The reporting shall be in a format required by the
12 director and filed with the department as a public record as defined and regulated under chapter 2
13 of title 38.

14 (b) A pharmacy benefit manager may not reimburse a pharmacy or pharmacist for a
15 prescription drug or pharmacy service in an amount less than the national average drug acquisition
16 cost for the prescription drug or pharmacy service at the time the drug is administered or dispensed,
17 plus a professional dispensing fee equal to the current Medicaid covered outpatient prescription
18 drug reimbursement dispensing fee for Rhode Island; provided that, if the national average drug

1 acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit
2 manager shall reimburse in an amount that is not less than the wholesale acquisition cost of the
3 drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus the professional dispensing set forth
4 herein. For purposes of this section, “National average drug acquisition cost” means the monthly
5 survey of retail pharmacies conducted by the federal Centers for Medicare and Medicaid Services
6 to determine the average acquisition cost for Medicaid covered outpatient drugs.

7 (c) The office of the health insurance commissioner (OHIC) may enforce the provisions of
8 this chapter by imposing civil fines up to ten thousand dollars (\$10,000) per violation or by taking
9 any other enforcement actions not prohibited by law. Nothing in this chapter shall preclude the
10 attorney general from also taking actions against pharmacy benefit managers to enforce any laws,
11 including provisions set forth in this section.

12 (d) Should any provision of this section be found unconstitutional, preempted, or otherwise
13 invalid, the remainder of this section, and the application of the provisions to persons or
14 circumstances other than those as to which it is held invalid, shall not be affected by that invalidity.

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would ensure that independent pharmacies are protected from pharmacy benefit
2 discrimination toward non-affiliated pharmacies and help protect consumers' ability to choose
3 local, independent pharmacies.

4 This act would take effect upon passage.

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