

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 322 Session of  
1997

INTRODUCED BY OLASZ, ITKIN, BELARDI, PETRARCA, LYNCH, CLARK,  
GEORGE, MICHLOVIC, READSHAW, VAN HORNE, COWELL, STABACK,  
LaGROTTA, DeLUCA, JAMES, MUNDY, TRELLO, ROBERTS, BOSCOLA,  
BEBKO-JONES, ROHRER, STERN, GORDNER, LEDERER, THOMAS,  
STEELMAN, BELFANTI AND WASHINGTON, FEBRUARY 5, 1997

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 5, 1997

AN ACT

1 Providing for pharmacy services in health insurance policies and  
2 employee benefit plans and for the rights of pharmacists and  
3 persons enrolled in health insurance plans and employee  
4 benefit plans; and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pharmacy  
9 Services Freedom of Choice Act.

10 Section 2. Definitions.

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

14 "Licensed pharmacist." An individual duly licensed by the  
15 State Board of Pharmacy to engage in the practice of pharmacy.

16 "Medical practitioner." A physician, dentist, veterinarian  
17 or other individual duly authorized and licensed by law to

1 prescribe drugs.

2 "Person." An individual, partnership, corporation or  
3 association or any other legal entity.

4 "Prescription." A written or oral order, issued by a duly  
5 licensed medical practitioner in the course of his professional  
6 practice, for a controlled substance or other drug, device or  
7 medication which is dispensed for use by a consumer.

8 "Prescription drug." A drug supplied pursuant to a  
9 prescription.

10 "Prescription drug benefit program." A program through which  
11 a person enrolled in the program may obtain pharmacy services,  
12 including prescription drugs, through payment by a third-party  
13 entity.

14 "Provider contract." A contract or agreement providing  
15 pharmacy services to a beneficiary, with payment made by a  
16 third-party entity.

17 Section 3. Prohibited policy provisions.

18 No health insurance policy or employee benefit plan which is  
19 executed, delivered, issued or otherwise contracted for in this  
20 Commonwealth shall:

21 (1) Deny any licensed pharmacy or licensed pharmacist  
22 the right to participate as a contracting provider for the  
23 policy or plan upon the same terms and conditions as are  
24 offered to any other pharmacy provider under the policy or  
25 plan.

26 (2) Prevent any person who is a party to or beneficiary  
27 of any health insurance policy or employee benefit plan from  
28 selecting a licensed pharmacy of his or her choice to furnish  
29 the pharmacy services offered under the policy or plan,  
30 provided that the pharmacy elects to participate as a

1 provider under the terms and conditions of the policy or  
2 plan.

3 (3) Permit or mandate any difference in the copayment  
4 fee charged to any person who is a party to or beneficiary of  
5 any health insurance policy or employee benefit plan,  
6 regardless of the provider selected by the person or party or  
7 regardless of whether the prescription benefits are provided  
8 through direct contact with the provider or by utilization of  
9 a mail-order service. Further, no policy or plan shall  
10 provide differences in coverage or impose any different  
11 conditions upon any person who is a party to or beneficiary  
12 of any policy or plan based upon the provider utilized or  
13 whether a mail-order service is utilized.

14 Section 4. Unlawful acts.

15 After the effective date of this act, it shall be unlawful  
16 for any health insurance policy or employee benefit plan  
17 providing pharmacy services, including drugs, to require the  
18 utilization of a specific licensed pharmacy, whether located  
19 within or outside of this Commonwealth. The policy or plan must  
20 allow the beneficiary or employee the freedom to obtain the  
21 pharmacy services from any licensed pharmacy willing to provide  
22 the services under the terms and conditions of the insurance  
23 policy or employee benefit plan.

24 Section 5. Provisions in conflict with act.

25 (a) Contrary provisions void.--Any provision in a health  
26 insurance policy or employee benefit plan which is executed,  
27 delivered, renewed or otherwise contracted for in this  
28 Commonwealth that is contrary to any provision of this act  
29 shall, to the extent of such conflict, be void.

30 (b) Unlawful act.--It shall be unlawful for any insurer or

1 any person to provide any health insurance policy or employee  
2 benefit plan providing for pharmacy services that does not  
3 conform to the provisions of this act.

4 Section 6. Restriction on sale of insurance policies.

5 The Insurance Commissioner shall not approve for sale any  
6 health insurance policy or employee benefit plan providing for  
7 pharmacy services which does not conform to the provisions of  
8 this act.

9 Section 7. Enforcement by Insurance Commissioner.

10 It shall be the duty and responsibility of the Insurance  
11 Commissioner to administer and enforce the provisions of this  
12 act and to promulgate necessary rules and regulations.

13 Section 8. Penalties.

14 A person or entity who violates a provision of this act  
15 commits a misdemeanor and shall, upon conviction, be sentenced  
16 to pay a fine of not more than \$5,000 or to imprisonment for not  
17 more than one year, or both. For each subsequent conviction, the  
18 violator shall be sentenced to pay a fine of not more than  
19 \$15,000 or to imprisonment for not more than three years, or  
20 both.

21 Section 9. Repeals.

22 All acts and parts of acts are repealed insofar as they are  
23 inconsistent with this act.

24 Section 10. Applicability.

25 This act shall apply to all health insurance and employee  
26 benefit plans providing pharmacy services benefits, including,  
27 without limitation, prescription drugs, to any resident of this  
28 Commonwealth.

29 Section 11. Effective date.

30 This act shall take effect in 60 days.