

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 AND MASSER, APRIL 29, 2019

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2019

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 OR PHARMACY SERVICES ADMINISTRATION ORGANIZATION.

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14 "Covered entity." A contract holder or policy holder

1 providing pharmacy benefits to a covered individual under a
2 health insurance policy pursuant to a contract administered by a
3 pharmacy benefits manager.

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

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

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

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

17 "Pharmacy benefits management." Any of the following:

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

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

24 (3) Administration of pharmacy benefits, including:

25 (i) Operating a mail-service pharmacy.

26 (ii) Claims processing.

27 (iii) Retail pharmacy network management.

28 (iv) Paying claims to pharmacies for prescription
29 drugs dispensed to covered individuals ~~via~~ BY A retail, <--
30 SPECIALTY or mail-order pharmacy.

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

3 (vi) Rebate contracting and administration.

4 (vii) Managing a patient compliance, therapeutic
5 intervention and generic substitution program.

6 (viii) Operating a disease management program.

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

10 "Pharmacy benefits manager." A person, business or other
11 entity that performs pharmacy benefits management.

12 "PHARMACY SERVICES ADMINISTRATION ORGANIZATION." A PERSON, <--
13 BUSINESS OR OTHER ENTITY THAT PERFORMS ANY OF THE FOLLOWING:

14 (1) NEGOTIATES AND CONTRACTS WITH MANAGED CARE
15 ORGANIZATIONS OR PHARMACY BENEFIT MANAGERS ON BEHALF OF THEIR
16 PHARMACY MEMBERS.

17 (2) NEGOTIATES REIMBURSEMENT RATES, PAYMENT AND AUDIT
18 TERMS ON BEHALF OF THEIR PHARMACY MEMBERS.

19 (3) PAYMENT COLLECTION OR RECONCILIATION ON BEHALF OF
20 THEIR PHARMACY MEMBERS.

21 Section 3. Disclosure of prescription drug costs.

22 (a) Information to covered individual.--A pharmacy or
23 pharmacist shall have the right to provide a covered individual
24 with information concerning the cost of a prescription drug,
25 including the individual's cost share.

26 (b) No prohibition or penalization.--A pharmacy, pharmacist
27 or contracting agent of a pharmacy or pharmacist may not be
28 prohibited from or penalized by a pharmacy benefits manager OR <--
29 PHARMACY SERVICES ADMINISTRATION ORGANIZATION for discussing the
30 information under subsection (a), disclosing the availability of

1 therapeutically equivalent alternative medications or selling to
2 the covered individual a more affordable alternative if an
3 affordable alternative is available.

4 Section 4. Disclosure of contract information.

5 (a) Disclosure authorized.--A pharmacy benefits manager OR <--
6 PHARMACY SERVICES ADMINISTRATION ORGANIZATION shall not
7 prohibit, restrict or limit written or oral disclosure of
8 contract information by a pharmacist or pharmacy to any State,
9 county or municipal official or before any State, county or
10 municipal committee, body or proceeding.

11 (b) Penalty prohibited.--A pharmacy benefits manager OR <--
12 PHARMACY SERVICES ADMINISTRATION ORGANIZATION shall not penalize
13 or restrict a pharmacist or pharmacy for any disclosure under
14 subsection (a).

15 Section 5. Effective date.

16 This act shall take effect ~~in 60 days~~ IMMEDIATELY. <--