

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 15

Session of  
2007

INTRODUCED BY COSTA, STACK, TARTAGLIONE, KASUNIC, KITCHEN,  
MELLOW, MUSTO AND FUMO, MAY 8, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 8, 2007

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated  
2 Statutes, providing for drug retail price registry.

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

5 Section 1. Title 40 of the Pennsylvania Consolidated  
6 Statutes is amended by adding a part to read:

7 PART IV

8 HEALTH CARE REFORM

9 Chapter

10 71. (Reserved)

11 72. Affordability

12 73. (Reserved)

13 74. (Reserved)

14 75. Miscellaneous Provisions

15 CHAPTER 71

16 (RESERVED)

17 CHAPTER 72

AFFORDABILITY

Sec.

7201. (Reserved).

7202. (Reserved).

7203. (Reserved).

7204. (Reserved).

7205. (Reserved).

7206. (Reserved).

7207. (Reserved).

7207. (Reserved).

7208. (Reserved).

7209. Transparency in price and quality for consumers.

§ 7201. (Reserved).

§ 7202. (Reserved).

§ 7203. (Reserved).

§ 7204. (Reserved).

§ 7205. (Reserved).

§ 7206. (Reserved).

§ 7207. (Reserved).

§ 7208. (Reserved).

§ 7209. Transparency in price and quality for consumers.

(a) The Pennsylvania Drug Retail Price Registry.--

(1) The council shall establish and maintain a registry to be known as the Pennsylvania Drug Retail Price Registry for the purpose of making retail price information for the 150-most-frequently prescribed prescription drugs, together with their generic equivalents where applicable, readily available to consumers in this Commonwealth.

(i) The drug price registry shall include the information submitted to the council under this

1 subsection and the name and address of each pharmacy  
2 providing the information and shall be organized by zip  
3 code.

4 (ii) The drug price registry shall be updated  
5 monthly by the council and shall be posted on the  
6 council's Internet website in a format that is conducive  
7 to review and comparison by consumers of prescription  
8 drug retail prices charged by pharmacies in each zip code  
9 within this Commonwealth. It shall include a toll-free  
10 telephone number maintained by the council that consumers  
11 may call to obtain reprints of the registry.

12 (iii) The website shall be designed so that the  
13 consumer may download and print the displayed information  
14 and shall include at least the following:

15 (A) Internet web links to other government  
16 resources that provide information relating to the  
17 regulation of prescription drugs and Federal and  
18 State health care coverage and pharmaceutical  
19 assistance programs.

20 (B) An advisory statement alerting consumers of  
21 the need to tell their health care practitioner and  
22 pharmacist about all the medications they may be  
23 taking and to ask them how to avoid harmful  
24 interactions between those drugs, if any.

25 (C) Clearly understandable language that is  
26 designed to assist consumers in understanding the  
27 content of and how to access the information made  
28 available on the website pursuant to this subsection.

29 (2) Within 30 days following the effective date of this  
30 section, the director of PACE shall determine and submit to

1 the Pennsylvania Bulletin for publication a list of the 150-  
2 most-frequently prescribed prescription drugs in this  
3 Commonwealth and their generic equivalents and the unit  
4 amount to be used for price reporting purposes. The list  
5 shall be updated by the director of PACE annually thereafter,  
6 and each such update shall be submitted to the Legislative  
7 Reference Bureau for publication as a notice in the  
8 Pennsylvania Bulletin.

9 (3) Every pharmacy selling pharmaceuticals at retail in  
10 this Commonwealth shall submit to the council for inclusion  
11 in the drug price registry, in a form and manner prescribed  
12 by the council, on the 10th day of each calendar month  
13 beginning with the first calendar month following publication  
14 of the list described in paragraph (2), its prior monthly  
15 retail prices for each drug on the list and its generic  
16 equivalent, together with the amount of the dispensing fee.  
17 In addition, each such pharmacy shall make the list and its  
18 prices available to its customers at the pharmacy retail site  
19 upon request.

20 (i) Each pharmacy retail site shall post a sign that  
21 notifies customers of the availability of its price list  
22 in a conspicuous location that is either at or adjacent  
23 to the place where prescriptions are presented for  
24 compounding and dispensing, in the customer waiting area  
25 or in the area where prescribed drugs are delivered.

26 (ii) The provisions of this paragraph shall not be  
27 construed to prevent a pharmacy from changing its current  
28 retail price at any time, provided that the listed price  
29 available at the pharmacy retail site is updated at least  
30 weekly to reflect the new retail price.

1       (4) The State Board of Pharmacy may impose a fine of up  
2 to \$1,000 per day for each day that a pharmacy fails to  
3 comply with any of the provisions of this paragraph. A  
4 separate fine may be imposed for each failure to comply. All  
5 finest shall be due 30 days from receipt of notice of each  
6 such failure. Funds collected pursuant to this paragraph  
7 shall be deposited into the CAP Fund.

8 (b) The Pennsylvania Hospital Payment Registry.--

9       (1) The council shall also establish and maintain a  
10 registry to be known as the Pennsylvania Hospital Payment  
11 Registry for the purpose of making readily available to  
12 consumers information regarding the payments received by  
13 hospitals for the 150-most-frequent admission diagnoses and  
14 the 150-most-frequently dispensed drugs.

15       (i) The hospital payment registry shall include the  
16 information submitted to the council under this  
17 subsection and the name and address of each hospital  
18 providing the information and shall be organized by zip  
19 code.

20       (ii) The hospital payment registry shall be updated  
21 annually by the council and shall be posted on the  
22 council's Internet website in a format that is conducive  
23 to review and comparison by consumers of reimbursement  
24 data from hospitals in each zip code of this  
25 Commonwealth. It shall include a toll-free telephone  
26 number maintained by the council that consumers may call  
27 to obtain reprints of the registry.

28       (iii) The website shall be designed so that the  
29 consumer may download and print the displayed information  
30 and shall include at least the following:

1           (A) Internet web links to other government  
2           resources that provide information relating to the  
3           regulation of hospitals and health insurance.

4           (B) Clearly understandable language that is  
5           designed to assist consumers in understanding the  
6           content of and how to access the information made  
7           available on the website pursuant to this subsection.

8           (iv) The information on the hospital payment  
9           registry may be combined with other data collected by the  
10          council and posted on the council's Internet website to  
11          provide comparative information useful to consumers  
12          selecting a hospital for medical care.

13          (2) Within 90 days following the effective date of this  
14          section and on or before January 31 of each year thereafter,  
15          all hospitals shall submit to the council for inclusion in  
16          the hospital payment registry, in a form and manner  
17          prescribed by the council, all of the following:

18           (i) The 150-most-frequent admission diagnoses and  
19           the 150-most-frequently dispensed drugs (both  
20           prescription and nonprescription) in the hospital during  
21           the preceding year.

22           (ii) The amount an individual enrolled in a high  
23           deductible health plan with a health savings account is  
24           required to pay for the diagnoses and drugs described in  
25           subparagraph (i).

26           (iii) The average payment the hospital has  
27           negotiated with third-party payers for the diagnoses and  
28           drugs described in subparagraph (i).

29           (iv) The amount an uninsured patient is charged for  
30           the diagnoses and drugs described in subparagraph (i).

1       (3) A hospital shall make the list and payments received  
2       available to its patients at the hospital site upon request.  
3       The hospital shall post a sign that notifies patients of the  
4       availability of the list at or adjacent to the place where  
5       patients are admitted to the hospital and at the place where  
6       patients receive financial counseling.

7       (c) The Pennsylvania Outpatient Procedure Payment  
8       Registry.--

9       (1) The council shall also establish and maintain a  
10       registry to be known as the Pennsylvania Outpatient Procedure  
11       Payment Registry for the purpose of making readily available  
12       to consumers information regarding the payments received by  
13       ambulatory surgical facilities and imaging centers for the  
14       50-most-frequent outpatient procedures.

15       (i) The outpatient procedure payment registry shall  
16       include the information submitted to the council under  
17       this subsection and the name and address of each  
18       outpatient facility providing the information and shall  
19       be organized by zip code.

20       (ii) The outpatient procedure payment registry shall  
21       be updated annually by the council and shall be posted on  
22       the council's Internet website in a format that is  
23       conducive to review and comparison by consumers of  
24       reimbursement data from outpatient facilities in each zip  
25       code of this Commonwealth. It shall include a toll-free  
26       telephone number maintained by the council that consumers  
27       may call to obtain reprints of the registry.

28       (iii) The website shall be designed so that the  
29       consumer may download and print the displayed information  
30       and shall include at least the following:

1           (A) Internet web links to other government  
2           resources that provide information relating to the  
3           regulation of outpatient facilities and health  
4           insurance.

5           (B) Clearly understandable language that is  
6           designed to assist consumers in understanding the  
7           content of and how to access the information made  
8           available on the website pursuant to this subsection.

9           (iv) The information on the outpatient procedure  
10          payment registry may be combined with other data  
11          collected by the council and posted on the council's  
12          Internet website to provide comparative information  
13          useful to consumers selecting a provider of medical care.

14          (2) Within 90 days following the effective date of this  
15          section and on or before January 31 of each year thereafter,  
16          all ambulatory surgical facilities and all imaging centers  
17          shall submit to the council for inclusion in the outpatient  
18          procedure payment registry, in a form and manner prescribed  
19          by the council, the 50-most-frequent procedures performed at  
20          the ambulatory surgical facility or imaging center during the  
21          preceding year, the charge for each such procedure and the  
22          average third-party reimbursement for each such procedure.

23          (3) The council, in consultation with the Department of  
24          Health, may determine that the same information should be  
25          obtained from other health care providers that primarily  
26          perform outpatient procedures other than for primary or  
27          chronic care, and, 90 days following publication of notice in  
28          the Pennsylvania Bulletin, those health care providers shall  
29          submit to the council for inclusion in the outpatient  
30          procedure payment registry the information set forth in



1 paragraph (2).

2 (d) Guidelines.--The council may adopt guidelines to  
3 effectuate the purposes of this section.

4 (e) Enforcement.--In addition to any other remedy available,  
5 the council may impose a civil penalty of up to \$500 per day for  
6 each failure of a facility to provide the council the  
7 information required under this section. All fines collected  
8 under this subsection shall be deposited in the CAP Fund.

9 CHAPTER 73

10 (RESERVED)

11 CHAPTER 74

12 (RESERVED)

13 CHAPTER 75

14 MISCELLANEOUS PROVISIONS

15 Sec.

16 7501. Regulations.

17 7502. Enforcement.

18 7503. Severability.

19 § 7501. Regulations.

20 (a) Regulations promulgated under this part.--Except as  
21 otherwise provided in this part, the promulgation of regulations  
22 under this part by Commonwealth agencies given the authority to  
23 promulgate regulations shall, until three years from the  
24 effective date of this section, be exempt from the following:

25 (1) Section 205 of the Commonwealth Documents Law.

26 (2) The Commonwealth Attorneys Act.

27 (3) The Regulatory Review Act.

28 (b) Other regulations.--If, in the determination of the head  
29 of a Commonwealth agency given authority to promulgate  
30 regulations under this part, rulemaking is needed for purposes

1 of the safety of patients in this Commonwealth, the Commonwealth  
2 agency may promulgate a final-omitted regulation under the  
3 Regulatory Review Act.

4 § 7502. Enforcement.

5 (a) Determination of violation.--Upon a determination that a  
6 person licensed by the Insurance Department has violated any  
7 provision of this part, the department may, subject to 2 Pa.C.S.  
8 Chs. 5 Subch. A (relating to practice and procedure of  
9 Commonwealth agencies) and 7 Subch. A (relating to judicial  
10 review of Commonwealth agency action) do any of the following:

11 (1) Issue an order requiring the person to cease and  
12 desist from engaging in the violation.

13 (2) Suspend or revoke or refuse to issue or renew the  
14 certificate or license of the offending party or parties.

15 (3) Impose an administrative penalty of up to \$5,000 for  
16 each violation.

17 (4) Seek restitution.

18 (5) Impose any other penalty or pursue any other remedy  
19 deemed appropriate by the commissioner.

20 (b) Other remedies.--The enforcement remedies imposed under  
21 this section are in addition to any other remedies or penalties  
22 which be imposed by any other applicable statute, including the  
23 act of July 22, 1974 (P.L.589, No.205), known as the Unfair  
24 Insurance Practices Act. A violation by any person of this part  
25 is deemed an unfair method of competition and an unfair or  
26 deceptive act or practice under the Unfair Insurance Practices  
27 Act.

28 (c) No private cause of action.--Nothing in this part shall  
29 be construed as to create or imply a private cause of action for  
30 violation of this part.

1   § 7503. Severability.

2       (a) General rule.--The provisions of this part are  
3   severable. If any provision of this part or its application to  
4   any person or circumstance is held invalid, the invalidity shall  
5   not affect other provisions or applications of this part which  
6   can be given effect without the invalid provision or  
7   application.

8       (b) (Reserved).

9       (c) (Reserved).

10   Section 2. This act shall take effect in 60 days.