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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 639 Session of  
2019

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INTRODUCED BY PHILLIPS-HILL, BLAKE, LEACH, VOGEL, FOLMER,  
J. WARD, SCHWANK, AUMENT, HUTCHINSON, KILLION, BREWSTER AND  
K. WARD, MAY 13, 2019

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REFERRED TO BANKING AND INSURANCE, MAY 13, 2019

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AN ACT

1 Providing for consumer prescription drug pricing disclosure, for  
2 pharmacy freedom to communicate and for enforcement by the  
3 Insurance Department.

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

6 Section 1. Short title.

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

9 Section 2. Definitions.

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

13 "Contract." A contract administered by a pharmacy benefits  
14 manager.

15 "Covered entity." A contract holder or policy holder  
16 providing pharmacy benefits to a covered individual under a  
17 health insurance policy pursuant to a contract administered by a  
18 pharmacy benefits manager.

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

6 "Department." The Insurance Department of the Commonwealth.

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

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

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

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

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

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

22 (3) Administration of pharmacy benefits, including:

23 (i) Operating a mail-service pharmacy.

24 (ii) Claims processing.

25 (iii) Retail pharmacy network management.

26 (iv) Paying claims to pharmacies for prescription  
27 drugs dispensed to covered individuals via retail or  
28 mail-order pharmacy.

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

- 1 (vi) Rebate contracting and administration.  
2 (vii) Managing a patient compliance, therapeutic  
3 intervention and generic substitution program.  
4 (viii) Operating a disease management program.  
5 (ix) Setting pharmacy reimbursement pricing and  
6 methodologies, including maximum allowable cost, and  
7 determining single or multiple source drugs.

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

10 "Pharmacy services administration organization." A company  
11 that provides contract negotiation, communication and help-desk  
12 services between pharmacies and pharmacy benefits managers.

13 Section 3. Disclosure of prescription drug costs.

14 (a) Information to covered individual.--A pharmacy or  
15 pharmacist shall have the right to provide a covered individual  
16 with information concerning the cost of a prescription drug,  
17 including the individual's cost share.

18 (b) No prohibition or penalization.--A pharmacy, pharmacist  
19 or contracting agent of a pharmacy or pharmacist may not be  
20 prohibited from or penalized by a pharmacy benefits manager for  
21 discussing the information under subsection (a), disclosing the  
22 availability of therapeutically equivalent alternative  
23 medications or selling to the covered individual a more  
24 affordable alternative if an affordable alternative is  
25 available.

26 Section 4. Disclosure of contract information.

27 (a) Disclosure authorized.--A pharmacy benefits manager  
28 shall not prohibit, restrict or limit written or oral disclosure  
29 of contract information by a pharmacist or pharmacy to any  
30 State, county or municipal official or before any State, county

1 or municipal committee, body or proceeding, or the media,  
2 including, but not limited to, social media platforms.

3 (b) Penalty prohibited.--A pharmacy benefits manager shall  
4 not penalize or restrict a pharmacist or pharmacy for any  
5 disclosure under subsection (a).

6 (c) Removal of pharmacy from network prohibited.--A pharmacy  
7 benefits manager shall not require, request or imply by contract  
8 or other means, that a pharmacy services administration  
9 organization or any other subcontractor, remove a pharmacy from  
10 the network or penalize the pharmacy for any disclosure under  
11 subsection (a).

12 Section 5. Enforcement.

13 The department shall enforce the provisions of this act and  
14 shall impose an administrative fine of not less than \$10,000 for  
15 a violation of this act.

16 Section 6. Effective date.

17 This act shall take effect in 60 days.