



Prescription Drug Resource Center

NATIONAL CONFERENCE of STATE LEGISLATURES

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Prohibiting PBM “Gag Clauses” that Restrict Pharmacists from Disclosing Price Options: Recent State Legislation 2016-2018

June 1, 2018

Compiled by the NCSL Health Program, Richard Cauchi, Program Director

Pharmacy-based and mail-order consumer purchases of prescription drugs were a \$235 billion market annually in the United States in 2015.

Commercial contracts between a pharmacy and a Pharmaceutical Benefit Manager (PBM) are a widespread feature in the distribution and sales chain between original manufacturer and the end consumer.

However, the terms of these arrangements and binding contracts usually are invisible to individual consumers and some purchasers such as employers. In some cases, these arrangements include restrictions that mean a pharmacist is prohibited by a contract with a PBM from informing consumers that the drug they want to buy has purchase options, and could be purchased at a lower cost if the consumers paid out of pocket rather than purchasing through their insurance plan. In financial terms, prescription drug overpayments (also known as “clawbacks”) also occur when commercially insured patients’ copayments exceed the total cost of the drug to their insurer or pharmacy benefit manager.

These so-called “gag clauses” have come to the attention of state policymakers seeking to lower drug costs, by requiring more extensive transparency at the retail pharmacy level. A rapidly growing number of legislative proposals in 2018 seek to block such commercial PBM or health insurer contracts that may prohibit pharmacies from informing customers about available alternative pricing for medications, including paying out-of-pocket, or including generics or brand products that may be less costly, or comparatively more suitable for a patient. Many bills also address the “co-pay clawback” situation noted above.

Statute Example: North Carolina’s enacted Chapter #2017-116 provides:

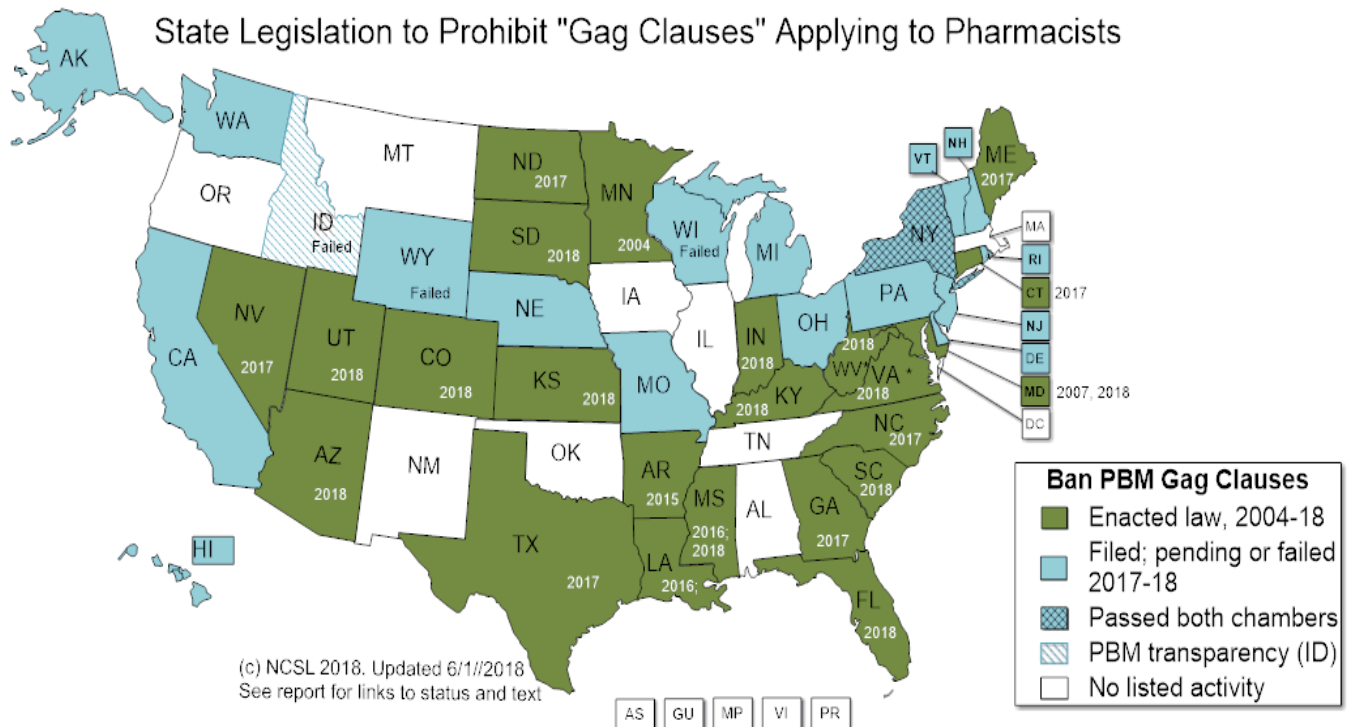
“A pharmacy or pharmacist shall have the right to provide an insured information regarding the amount of the insured’s cost share for a prescription drug. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for discussing any information described in this section or for selling a lower priced drug to the insured if one is available.”

Between 2016 and May 31, 2018, at least **22 states** enacted laws among at least 40 state legislatures that considered prohibiting “gag clauses” in contracts that restrict pharmacists.

The most recent laws, signed in March -May 2018, include Arizona, Colorado, Florida, Indiana, Kansas, Kentucky, Mississippi, Utah, Virginia and West Virginia.

- **Alaska** (2 filed bills 2018; pending)
- **Arizona** (H 2107; **enacted law**, 2018)
- **Arkansas** (H 1010; **enacted law**, 2018, 2015)³
- **California** (2 filed bill 2018)
- **Colorado** (H 1284; **enacted law**, 2018) *NEW*
- **Connecticut** (**enacted law**, 2017)
- **Delaware** (filed bill, 2018)
- **Florida** (H 351; **enacted law**, 2018)³

- **Georgia** (2 enacted laws, 2017)
- **Hawaii** (filed bill 2018; passed Senate and House; pending)
- **Idaho** (transparency bill filed; failed 2018)
- **Indiana** (H 1317, enacted law, 2018)³)
- **Kansas** (enacted law, 2018)
- **Kentucky** (enacted law, 2018)³
- **Louisiana** (enacted law, 2016; 3 filed bills 2018: SB 241 passed Senate & House; pending)³
- **Maine** (enacted law, 2017)
- **Maryland** (2007 and 2018 enacted laws; S 576)³
- **Michigan** (filed bill 2018; pending)³ NEW
- **Minnesota** (filed bill 2018; passed House, pending; previous enacted law)³
- **Mississippi** (limited enacted law, 2016; expanded application, enacted law, 2018)
- **Missouri** (filed bill 2018; passed House; pending)
- **Nebraska** (filed bill 2018; pending)
- **Nevada** (enacted law, diabetes only, 2017)³
- **New Hampshire** (filed bill 2018; passed Senate and House; pending)
- **New Jersey** (2 filed bills 2018; pending)
- **New York** (4 filed bills 2018; Passed Assembly & Senate; to governor; pending)
- **North Carolina** (enacted law, 2017).
- **North Dakota** (enacted law, 2017)
- **Ohio** (filed bill 2018; pending)³
- **Pennsylvania** (filed bill 2018; pending)
- **Rhode Island** (filed bill 2018; pending-held)
- **South Carolina** (H 5038; enacted law, 2018)
- **South Dakota** (Filed bill; enacted law signed 2018 session)
- **Texas** (enacted law, 2017)³
- **Utah** (S 208; enacted law, 2018)³
- **Vermont** (filed bill 2018; pending)
- **Virginia** (filed bill 2018; passed House and Senate; enacted law, 2018)
- **Washington** (2 filed bills 2018; 1 passed House and pending)
- **West Virginia** (2 filed bills 2018; S 46 enacted law, 2018)³
- **Wisconsin** (2 filed bills 2018; failed)³
- **Wyoming** (filed bill 2018; failed)



Related Media Coverage

- ◆ ["Why Your Pharmacist Can't Tell You That \\$20 Prescription Could Cost Only \\$8"](#) (cites NCSL data) published by the New York Times, 2/25/2018.
- ◆ ["There Might Be a Cheaper Drug, But Pharmacists Can't Tell You That"](#) - (NCSL report cited) – Stateline, 5/30/2018
- ◆ ["Overpaying for Prescription Drugs: The Copay Clawback Phenomenon"](#) - Academic report by USC Schaeffer, California (11 pp, PDF)
- ◆ [Patients Overpay For Prescriptions 23% Of The Time, Analysis Shows](#) - (NCSL report cited) Kaiser Health News, 3/13/2018 | Business section, Los Angeles Times 3/14/2018
- ◆ [Drug industry facing onslaught from frustrated states.](#) – The Hill, 4/20/2018
- ◆ [Michigan Bill Clamps Down on Pharmaceutical Gag Clauses](#) – AP/WWMT-TV Michigan, 4/24/2018
- ◆ [Independent Druggists Say They Lose Money on Many Rx Sales](#) - BNA Health Care at Bloomberg Law, 2/26/2018.

CMS - Seema Verma Administrator: A news update from 5/30 described: "The Trump administration is putting its foot down on so-called gag clauses used by insurers and PBMs that can lead to higher costs for Medicare consumers. In a May 17 [letter](#) (PDF) to Medicare Part D plan providers, the Centers for Medicare & Medicaid Services (CMS) called such contracts "unacceptable" and said that participants in such arrangements could face agency enforcement. But the written warning isn't likely to have a substantial impact on its own."

Stakeholder Positions

- **The Pharmaceutical Care Management Association (PCMA)**, stated "PBMs support the patient always paying the lowest cost at the pharmacy counter, whether it's the cash price or the copay. We would oppose contracting that prohibits drugstores from sharing with patients the cash price they charge for each drug."
- **National Community Pharmacists Association (NCPA)** "Some practices of pharmacy benefit managers can inhibit the ability of pharmacists to assist patients in finding the lowest price for prescription drugs... bills will enable pharmacists to inform patients who are insured under a variety of health plans of their best options." (NCPA, 3/15/2018).

This research reviewed measures from all 50 states, but may not include every bill or older statute that contains this type of restriction. Most legislation and details have been excerpted from the online [NCSL Prescription Drug Database](#), which includes bill status updated weekly and complete full text links. Note 3 means action was updated in March-May. Note: Bill numbers in this document normally are links when used while on the website.

The NCSL database will display future status updates, at www.ncsl.org/Default.aspx?TabId=28729

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ALASKA

[AK S 209](#) | 2018

Prescription Drug Pricing

Status: Pending - Senate Labor and Commerce Committee

Date of Last Action: 2/19/2018

Author: Wielechowski (D)

Summary: Relates to the practice of pharmacy, relates to notifications to consumers regarding prescription drug pricing.

History: 02/19/2018 - INTRODUCED.

02/19/2018 - To SENATE Committee on LABOR AND COMMERCE & SENATE Committee on JUDICIARY.

[AK H 240](#) | 2018

Pharmacy Benefits Managers

Status: Pending - Senate Finance Committee

Date of Last Action: 4/13/2018

Author: Guttenberg (D) **Additional Authors:** Gara (D);Kopp (R);Knopp (R);Spohnholz (D);Stutes (R);Ortiz (I);Kito (D);Tarr (D);Kreiss-Tomkins (D);Drummond (D);Tuck (D);Kawasaki (D);Guttenberg (D);Parish (D)

Topics: Pricing and Payment - Industry, Other Prescription Drug Measures, Pharmacy Benefit Managers (PBM)

Summary: Relates to the registration and duties of pharmacy benefits managers (PBM), including procedures, guidelines, and enforcement mechanisms for pharmacy audits, bans gag clauses related to the cost of multi source generic drugs and insurance reimbursement procedures, authorizes a role for the director of the division of insurance affecting drug benefits.

History: [Click for History](#)

04/28/2017 - To HOUSE Committee on LABOR AND COMMERCE; also HOUSE Committee on FINANCE.

02/05/2018 - From HOUSE Committee on LABOR AND COMMERCE: Do pass.

04/06/2018 - From HOUSE Committee on FINANCE: Do pass with substitute.

04/13/2018 - Passed HOUSE. *****To SENATE.

04/20/2018 From SENATE Committee on FINANCE: Do pass. (6-0)

ARIZONA

[AZ H 2107](#) | 2018

Prescription Drug Costs and Patient Notification

Status: Enacted - Act No. 133

Date of Last Action: 04/05/2018 - **Enacted**

Author: Syms (R) **Additional Authors:** Barton (R);Boyer (R);Finchem (R);Kern (R);Weninger (R)

Summary: Relates to prescription drug costs: Provides that a PBM (pharmacy benefits manager) or other entity that administers prescription drug benefits 'may not prohibit by contract a pharmacy or pharmacist from informing the patient that the patient may be able to procure a prescription medication at a lower cost, including by paying the cash price.' (no 'gag' clauses)

History: 01/08/2018 - INTRODUCED.

01/22/2018 - To HOUSE Committee on HEALTH and HOUSE Committee on RULES.

02/21/2018 - In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

03/29/2018 - In SENATE. Read third time. Passed SENATE.

04/05/2018 - **Signed by GOVERNOR** as Chapter No. 133

[AZ H 2202](#) | 2018

Pharmacy Benefits Managers and Pharmacies

Status: Pending - House Health Committee

Author: Cobb (R)

Summary: Relates to pharmacy benefits managers. A pharmacy benefits manager "may not charge or collect a cost sharing requirement for a prescription or pharmacy service that exceeds the amount retained by the pharmacist or pharmacy from all payment sources for filling the prescription. PBMs may not prohibit a pharmacist or pharmacy from

informing an enrollee of the difference in cost sharing requirement and a purchase not using insurance to cover the cost; also allows selling a prescription drug outside of insurance coverage.

History: 01/11/2018 - INTRODUCED.

01/24/2018 - To HOUSE Committee on HEALTH; Additionally referred to HOUSE Committee on RULES.

ARKANSAS

[AR H 1010](#) | 2018

Pharmacy Manager Benefits

Status: Act No. 1 , 03/15/2018 - **Enacted**

Author: Gray (D)

Topics: Pricing and Payment - Industry, Cost Sharing and Deductibles - Consumers, Pharmacy Benefit Managers (PBM)

Summary: Creates the State Pharmacy Benefits Manager Licensure Act. Gag clauses prohibited: "A pharmacy or pharmacist may provide to an insured information regarding the insured's total cost for pharmacist services for a prescription drug. A pharmacy or pharmacist shall not be proscribed by a pharmacy benefits manager from discussing information regarding the total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if a more affordable alternative is available."

History:

03/13/2018 – INTRODUCED; To HOUSE Committee on INSURANCE AND COMMERCE.

03/13/2018 - From HOUSE Committee on INSURANCE AND COMMERCE: Do pass.

03/14/2018 - Passed HOUSE. *****To SENATE.

03/15/2018 - Passed SENATE.

03/15/2018 - Signed by GOVERNOR as Act 2018 - Act No. 1

CALIFORNIA

[CA S 1021](#) | 2018

Prescription Drugs

Status: Pending - Senate Health Committee

Author: Wiener (D) **Additional Authors:** Atkins (D)

Topics: Pricing and Payment - Industry, Utilization Management - Rx Drugs, Insurance/Coverage - Rx Drugs, Cost Sharing and Deductibles - Consumers, Pharmacy Benefit Managers (PBM)

Summary: Prohibits a drug formulary maintained by a health care service plan or health insurer from containing more than 4 tiers, and permits a biologic with a therapeutic equivalent to be placed on a tier other than tier 4, as specified. Requires a prescription drug benefit to provide that an enrollee or an insured is not required to pay more than the retail price for a prescription drug if a pharmacy's retail price is less than the applicable copayment or coinsurance amount. [

History:

02/07/2018 - INTRODUCED.

02/14/2018 - To SENATE Committee on HEALTH.

04/16/2018 - From SENATE Committee on HEALTH with author's amendments.

05/01/2018 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

COLORADO

[CO H 1284](#) | 2018

Disclosure of Prescription Costs at Pharmacies

Status: Session Law Chaptered. Chapter No. 181 **Enacted**

Author: Buckner (D) **Additional Authors:** Kefalas (D);Wilson J (R);Martinez (R)

Summary: Concerns the cost of prescription drugs purchased at a pharmacy. Prohibits contracts that "gag" or penalize a pharmacy or pharmacist from providing a covered person information on the amount of the covered person's cost share for the covered person's prescription drug and the clinical efficacy of any more affordable alternative drugs

History: 03/08/2018 - INTRODUCED.

03/08/2018 - To HOUSE Committee on HEALTH, INSURANCE, & ENVIRONMENT

03/27/2018 - From HOUSE Committee on APPROPRIATIONS: Reported favorably.

04/12/2018 - In HOUSE. Read second time and committee amendment adopted. To third reading..

CONNECTICUT

CT S 445 | 2017`

Pharmacy Benefits Manager and Records

Status: Enacted - Act No. 17-241 **Date of Last Action:** 07/10/2017 - Enacted

Author: Looney (D) **Additional Authors:** Fasano (R);Camillo (R);Elliott (D);Storms (R);Logan (R);Borer (D)

Summary: Concerns contracts between a pharmacy and a pharmacy benefits manager. Would prohibit future legislation preventing pharmacists from disclosing specified information to an individual purchasing a drug (i.e. the availability of any alternative less expensive medications). Would prohibit a health carrier or PBM from requiring an individual to pay for a covered prescription in an amount greater than the lesser of the applicable copayment, (2) allowable claim amount (i.e. the amount the health carrier or PBM agreed to pay the pharmacy), or (3) amount an individual would pay for the drug if he or she had no insurance plan, benefits, or discounts. Authorizes the insurance commissioner to audit pharmacy services' contracts for compliance and to enforce violations by voiding contracts that contain unfair trade practices.

History: 01/19/2017 – INTRODUCED; 01/19/2017 - To JOINT Committee on PUBLIC HEALTH.

04/11/2017 - Committee Substitute reported out of Legislative Commissioner's Office.

05/24/2017 - SENATE adopted SENATE Amendment; Passed SENATE. *****To HOUSE..

06/07/2017 - Passed HOUSE. *****To SENATE for concurrence..

07/10/2017 - Signed by GOVERNOR; Public Act No. 17-241

Also see [CT S 1502 a](#) of 2017 for related action

DELAWARE

DE H 425

Permitted Prescription Drug Disclosures

Status: filed 5/30/2018

Summary: Establishes that a contract between a pharmacy benefits manager and a pharmacy may not prohibit a pharmacy or pharmacist from doing any of the following; provides an insured with information regarding the retail price of a prescription drug or the amount of the cost share for which the insured is responsible for a prescription drug.

History: 05/30/2018 INTRODUCED; To HOUSE Comm. on ECONOMIC DEVELOPMENT, Banking/Insurance And Commerce.

FLORIDA

FL H 351 | 2018`

Pharmacy Benefits Managers

Status: 03/23/2018 - Signed by GOVERNOR. - Enacted

Author: Santiago (R) **Additional Authors:** La Rosa (R);Plasencia (R);Payne (R)

Associated Bills: FL S 1494 - Similar

Summary: Relates to pharmacy benefits managers; prohibits a managed care plan from contracting with a pharmacy benefits manager to manage the prescription drug coverage provided under the plan unless certain requirements are met; pharmacist "shall inform customers of a less expensive, generically equivalent drug product for her or his prescription and whether her or his cost-sharing obligation exceeds the retail price of the prescription in the absence of prescription drug coverage."

History: 10/16/2017 – PREFILED; 01/09/2018 – INTRODUCED; HOUSE HEALTH INNOVATION SUBCOMMITTEE.

02/15/2018 - From HOUSE Committee on HEALTH AND HUMAN SERVICES COMMITTEE: Reported favorably with substitute..

03/01/2018 - In HOUSE. Passed HOUSE. *****To SENATE.

03/07/2018 - In SENATE. Substituted on SENATE floor for SB 1494

03/08/2018 - In SENATE. Passed SENATE.

03/21/2018 - *****To GOVERNOR.

03/23/2018 - Signed by GOVERNOR.

[FL S 1494](#) | 2018

Prescription Drug Price Transparency

Status: Pending - Senate Banking and Insurance Committee

Author: Montford (D) **Additional Authors:** Grimsley (R);Powell (D)

Associated Bills: FL H 351 - Similar

Summary: Relates to prescription drug pricing transparency, requires a pharmacist to inform a customer of a lower cost alternative to a prescription and of whether the customers cost-sharing obligation exceeds the retail price of the prescription, defines the term pharmacy benefit manager, requires a pharmacy benefit manager to register with the Office of Insurance Regulation.

History: 01/03/2018 – PREFILED; 01/09/2018 - INTRODUCED.

01/12/2018 - To SENATE Committee on HEALTH POLICY.

02/08/2018 - To SENATE Committee on BANKING AND INSURANCE; In SENATE. On Committee agenda 02/20/18.

GEORGIA

[GA H 276](#) | 2018

Pharmacy Benefit Managers

Status: Enacted - Act No. 195 **Date of Last Action:** 05/08/2017 - **Enacted**

Author: Knight (R) **Additional Authors:** Meadows (R);Hatchett (R)

Summary: Relates to pharmacy benefits managers, “Prohibiting a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available;” authorizes the Commissioner of Insurance to investigate matters with regard to pharmacy benefits managers, prohibits pharmacy benefits managers from requiring the use of mail-order pharmacies under certain conditions, prohibits a pharmacy from providing direct delivery or charging a copayment that exceeds total charges.

History: 02/07/2017 – INTRODUCED; To HOUSE Committee on INSURANCE.

02/24/2017 - From HOUSE Committee on INSURANCE: Favorably reported as substituted.

02/28/2017 - In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

03/16/2017 - In SENATE. Read third time. Passed SENATE.

05/08/2017 - **Signed by GOVERNOR**; 05/08/2017 - Act No. 195

[GA S 103](#) | 2017

Pharmacy Benefits Managers

Status: Enacted - Act No. 196; **Date of Last Action:** 05/08/2017 - **Enacted**

Author: Mullis (R)

Summary: Relates to pharmacy benefits managers, “Prohibiting a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available;” authorizes the Commissioner of Insurance to investigate matters with regard to pharmacy benefits managers, prohibits pharmacy benefits managers from requiring the use of mail-order pharmacies under certain conditions, prohibits a pharmacy from providing direct delivery or charging a copayment that exceeds total charges.

History: 01/31/2017 - INTRODUCED.

02/23/2017 - From SENATE Committee on INSURANCE AND LABOR: Favorably reported as substituted.

02/28/2017 - In SENATE. Read third time. Passed SENATE. *****To HOUSE.

03/09/2017 - From HOUSE Committee on INSURANCE: Favorably reported.

03/16/2017 - In HOUSE. Read third time. Passed HOUSE.

05/08/2017 - **Signed by GOVERNOR** as Act No. 196

HAWAII

HI S 3104 | 2018

Pharmacy Benefit Managers

Status: In CONFERENCE Committee

Date of Last Action: 04/26/2018

Author: Baker (D) **Additional Authors:** Taniguchi (D);Inouye (D);English (D);Kim (D);Kidani (D);Keith-Agaran (D)

Topics: Pharmaceutical Pricing and Payment

Associated Bills: HI H 2644 - Companion

Summary: Establishes requirements for pharmacy benefit managers and maximum allowable cost, including the ability of pharmacies to receive comprehensive maximum allowable cost lists and bring complaints, within the purview of the Department of Commerce and Consumer Affairs, rather than the Department of Health, clarifies the available penalties for violations of maximum allowable cost requirements, removes requirement that prohibits a contracting pharmacy from disclosing the maximum allowable cost list.

History: 01/24/2018 - INTRODUCED.

01/26/2018 - To SENATE Committee on COMMERCE, CONSUMER PROTECTION, AND HEALTH.

01/26/2018 - Subsequent referral set for: SENATE Committee on WAYS AND MEANS.

03/06/2018 - In SENATE. Read third time. Passed SENATE. *****To HOUSE `

03/16/2018 - From HOUSE Committee on HEALTH AND HUMAN SERVICES: Do pass as amended (HD1).

03/16/2018 - To HOUSE Committee on CONSUMER PROTECTION AND COMMERCE.

03/19/2018 - In Committee: Hearing Scheduled.

04/06/2018 - From HOUSE Committee on FINANCE: Do pass.

04/06/2018 - In HOUSE. Read third time. Passed HOUSE. *****To SENATE for concurrence.

04/10/2018 - In SENATE. SENATE disagreed to HOUSE amendments.

04/26/2018 In CONFERENCE Committee: Meeting will Reconvene.

IDAHO

ID S 1289

2018

Pharmacy Benefit Manager Transparency

Status: Failed - Adjourned - Senate Commerce and Human Resources Committee

Date of Last Action: 2/9/2018

Author: Commerce and Human Resources Cmt

Topics: Pricing and Payment - Industry, Utilization Management - Rx Drugs, Pharmacy Benefit Managers (PBM)

Summary: Adds to existing law to provide transparency for pharmacy benefit managers. A PBM shall provide to a covered entity all financial and utilization information requested by the covered entity related to providing benefits to covered individuals through that covered entity and all financial and utilization information related to services to that covered entity. A PBM providing information under this section may designate that material as confidential. PBMs may substitute a lower-priced generic or therapeutically equivalent drug for a higher-priced prescribed drug, with regard to substitutions in which the substitute drug costs more than the prescribed drug, the substitution must be made for medical reasons that benefit the covered individual. Does *not* specifically ban gag clauses.

History: 02/09/2018 - INTRODUCED.

02/12/2018 - To SENATE Committee on COMMERCE AND HUMAN RESOURCES.

INDIANA

IN H 1317

2018 `

Health Matters

Status: Enacted - Act No. 209-2018 - 03/25/2018 - **Enacted**

Author: Clere (R)

Summary: Provides that a state employee plan may not prohibit a pharmacy, upon dispensing a drug, from providing to the covered individual information concerning a drug, including the cost and clinical efficacy of an available, more affordable, alternative drug. A state employee plan may not require a covered individual to pay more upon receiving a covered drug than the least of the following: (1) The amount of the deductible or copayment for the drug under the

state employee plan. (2) The amount payable to the pharmacy for the drug under the state employee plan's contract with the pharmacy. (3) The amount the pharmacy would charge for the drug if the covered individual did not have coverage or an applicable discount for the drug.

History: 01/12/2018 - INTRODUCED.

01/30/2018 - From HOUSE Committee on PUBLIC HEALTH: Do pass as amended.

02/05/2018 - Passed HOUSE. *****To SENATE.

03/06/2018 - Passed SENATE. *****To HOUSE for concurrence.

03/08/2018 - *****To CONFERENCE Committee.

03/25/2018 - Signed by GOVERNOR.

03/26/2018 - Public Law No. 209-2018

IN H 1158

2018`

Pharmaceutical Matters

Status: Failed - Adjourned

Author: Davisson (R)

Summary: Relates to pharmaceutical matters, requires a state employee plan, health insurer, and health maintenance organization to perform certain activities with respect to a maximum allowable cost list used for prescription drug reimbursement, including compilation and updating of the list, and pharmacy appeals, prohibits certain actions by health plans concerning pharmacy disclosure of pricing information and the amount payable upon receiving a prescription drug.

History: 01/08/2018 – INTRODUCED; To HOUSE Committee on INSURANCE.

KANSAS

KS S 351

2018

Pharmacy Patients Fair Practices Act

Status: Enacted - Signed by Governor, 03/29/2018; Chapter No. 2018-23 - **Enacted**

Author: Public Health and Welfare Cmt

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Summary: Enacts the Kansas Pharmacy Patients Fair Practices Act, states that a pharmacy or pharmacist shall have the right to provide a covered person with information regarding the amount of the covered person's cost share for a prescription drug, provides that co-payments applied by a health carrier for a prescription drug may not exceed the total submitted charges by the network pharmacy.

History: [Click for History](#)

02/01/2018 - INTRODUCED.

02/15/2018 - From SENATE Committee on FINANCIAL INSTITUTIONS AND INSURANCE: Recommended as amended..

02/22/2018 - Passed SENATE. *****To HOUSE.

03/08/2018 - From HOUSE Committee on INSURANCE: Recommended passage.

03/22/2018 - Passed HOUSE.

03/29/2018 - Signed by GOVERNOR. 04/25/2018 as Chapter No. 2018-23

KENTUCKY

KY H 463

2018

Pharmacy Benefits

Status: Enacted - Act No. 144, 04/10/2018 **Enacted -**

Author: Meredith (R) **Additional Authors:** Greer (D);Meredith (R);Rowland (R);Miller J (R);Wells (R)

Topics: Cost Sharing and Deductibles - Consumers, Pharmacy Benefit Managers (PBM)

Summary: Defines cost sharing, prohibits an insurer, pharmacy benefit manager (PBM) or other administrator from requiring payment for prescription drugs in excess of certain amounts, prohibits an insurer, pharmacy benefit manager, or other administrator from imposing a 'gag clause' or penalty on a pharmacist or pharmacy for complying as required. "A pharmacist shall have the right to provide an insured information regarding the applicable limitations on his or her cost-sharing pursuant to this section for a

prescription drug." (4) Any amount paid by an insured under subsection (2)(a) of this section shall be attributable toward any annual out-of-pocket maximums under the insured's health benefit plan.

History:

02/23/2018 - INTRODUCED.

02/28/2018 - From HOUSE Committee on BANKING AND INSURANCE: Reported favorably with Substitute.

03/07/2018 - Passed HOUSE. *****To SENATE.

03/09/2018 - To SENATE Committee on BANKING AND INSURANCE

03/29/2018 - Passed SENATE.

04/10/2018 - Signed by GOVERNOR as Act No. 144

LOUISIANA

LA S 241;

LA S 324 and

LA H 436

2018

Pharmaceuticals

Status: S 241 Pending - Passed HOUSE; To SENATE for concurrence. (97-0)

Date of Last Action: 3/12/2018

Author (S 241): Morrell (D) **Additional Authors:** Barrow (D);Mills (R);Perry (R);Price (D);Luneau (D)

Author (S 324): Mills (R)

Author (H 436): Johnson (D) **Additional Authors:** LeBas (D)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Summary: Provides that "No pharmacy benefit manager or other entity that administers prescription drug benefits in Louisiana shall prohibit by contract a pharmacy or pharmacist from informing a patient of all relevant options when acquiring their prescription medication, including but not limited to the cost and clinical efficacy of a more affordable alternative if one is available and the ability to pay cash if a cash payment for the same drug is less than an insurance copayment or deductible payment amount. [Updated 5/4/2018]

History (S 241): 03/01/2018 - PREFILED. To SENATE Committee on HEALTH AND WELFARE.

03/12/2018 - INTRODUCED. 03/14/2018 - From SENATE Committee on HEALTH AND WELFARE: Reported favorably.

03/19/2018 - Passed SENATE. *****To HOUSE.

05/03/2018- Passed HOUSE; *****To SENATE for concurrence. (97-0)

History (H 324): 03/12/2018 - To SENATE Committee on HEALTH AND WELFARE

History (H 436): 03/29/2018 - Passed HOUSE. *****To SENATE.

MAINE

ME S 10

2017

Clean Claims Submitted by Pharmacies

Status: Enacted - Act No. 44; **Date of Last Action:** 05/05/2017 - **Enacted**

Author: Gratwick (D) **Additional Authors:** Dill J (D);Katz (R);Foley (R);Tucker (D);Cyrway (R);Deschambault (D);Sylvester (D);Carpenter (D)

Summary: Prohibits a health insurance carrier or pharmacy benefits manager from imposing on an enrollee a copayment or other charge that exceeds the claim cost of a prescription drug, prohibits a carrier or pharmacy benefits manager from penalizing a pharmacy provider for providing information ("gag clause") related to an enrollee's out-of-pocket cost or the clinical efficacy of a prescription drug or alternative medication. "Prohibition on excessive copayments or charges, disclosure not penalized. A carrier or pharmacy benefits manager may not impose on an enrollee a copayment or other charge that exceeds the claim cost of a prescription drug. If information related to an enrollee's out-of-pocket cost or the clinical efficacy of a prescription drug or alternative medication is available to a pharmacy provider, a carrier or pharmacy benefits manager may not penalize a pharmacy provider for providing that information to an enrollee.

History: 01/05/2017 – INTRODUCED; 01/05/2017 - Filed as LR 193.

01/05/2017 - Refers to JOINT Committee on INSURANCE AND FINANCIAL SERVICES..

04/07/2017 - From JOINT Committee on INSURANCE AND FINANCIAL SERVICES: Ought to Pass as Amended.

04/25/2017 - In HOUSE. Passed to be engrossed.

04/27/2017 - In HOUSE. Passed to be enacted.

05/05/2017 - Signed by GOVERNOR; Public Law No. 44

MARYLAND

Maryland ch. 638. Of 2007

2007 - Signed by Governor - Enacted

Insurers, health maintenance organizations and nonprofit health service plans that provide coverage for prescription drugs and devices under health insurance policies or contracts or through a pharmacy benefit manager “may not impose a copayment or coinsurance requirement for a covered prescription drug or device that exceeds the retail price of the prescription drug or device.” (*Explicit “gag clause” prohibition language not included*).

History: Maryland. Insurance Code Section 15-842

MD H 736

2018`

Pharmacy Benefits Managers

Status: Enacted 4/24/2018 as Chapter No. 217 - Enacted

Author: Bromwell (D)

Associated Bills: MD S 576 - Crossfiled with

Summary: Prohibits a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from providing a beneficiary with certain information regarding the retail price of a prescription drug or the amount of the cost share for a prescription drug for which the beneficiary is responsible, prohibits a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from discussing with a beneficiary a certain retail price or certain cost share for a prescription drug, provides for the construction of the Act.

History: 02/01/2018 - INTRODUCED.

03/16/2018 From HOUSE Committee on HEALTH AND GOVERNMENT OPERATIONS: Reported as amended.

03/19/2018 Passed HOUSE. *****To SENATE.

03/28/2018 - From SENATE Committee on FINANCE: Reported favorably.

03/29/2018 - Passed SENATE.

04/24/2018 Signed by GOVERNOR as Chapter No. 217

MD S 576

2018

Pharmacy Benefits Managers

Status: Enacted 4/24/2018 as Chapter No. 218 - Enacted

Author: Klausmeier (D)

Associated Bills: MD H 736 - Crossfiled with

Summary: Prohibits a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from providing a beneficiary with information regarding the retail price of a prescription drug or the amount of the cost share for a prescription for which the beneficiary is responsible, prohibits a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from discussing with a beneficiary a certain retail price or certain cost share for a prescription drug, provides for the construction of the Act.

History: 01/31/2018 - INTRODUCED.; To SENATE Committee on FINANCE.

01/31/2018 - To SENATE Committee on FINANCE; Hearing Scheduled 2/28 at 1:00 p.m.

04/24/2018 Signed by GOVERNOR as Chapter No. 218

MICHIGAN

MI H 5858

2018

Pharmacy benefits managers

Status: Pending; Introduced 4/24/2018

Author: Rep. Whiteford (R)

Summary: Requires contracts with third party administrators to allow pharmacies to disclose current drug prices. Bans a pharmacy benefits manager from including a "gag clause": "A contract between a pharmacy benefit manager and a pharmacy must provide that the pharmacy may disclose the current selling price of a drug."

History:

04/24/2018 - 04/24/2018 INTRODUCED; to Committee on HEALTH POLICY

MINNESOTA

[MN S 2836](#)

Health Care (PBMs)

Status: Substituted for HOUSE Bill 3024

Last Amend: 04/09/2018

Disposition: Pending

Location: House Second Reading

Summary: Relates to health care; prohibits a health plan company from contractually preventing a pharmacist from informing a patient of a price differential.

History: 05/03/2018 Substituted for HOUSE Bill 3024

03/01/2018 INTRODUCED.

04/09/2018 From SENATE Committee on HEALTH and HUMAN SERVICES: Do pass as amended.

05/01/2018 Passed SENATE. *****To HOUSE. (67-0)

05/03/2018 Substituted for HOUSE Bill 3024

05/03/2018 In HOUSE. Second Reading.

[MN S 2669](#) and

[MN H 3016](#)

2018

Health Care

Status: Pending - Senate Health and Human Services Finance and Policy Committee

Date of Last Action: 2/23/2018

Author: Jensen S (R)

Associated Bills: MN H 3016 - Companion

Summary: Relates to health care, prohibits a health plan company from contractually preventing a pharmacist from informing a patient of a price differential.

History: 02/23/2018 - INTRODUCED.

02/26/2018 - To SENATE Committee on HEALTH and HUMAN SERVICES FINANCE and POLICY.

[MN H 3024](#)

2018

Health Care

Status: 05/03/2018 Indefinitely postponed. See S.B. 2836

Date of Last Action: 5/3/2-18

Author: Dean (R)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Associated Bills: MN S 2836 - Companion

Summary: Relates to health care, prohibits a health plan company from contractually preventing a pharmacist (because of a ""gag clause"") from informing a patient of a price differential, establishing a standard for prescription cost to consumers.

History:

02/26/2018 - INTRODUCED.

04/09/2018 - From HOUSE Committee on HEALTH AND HUMAN SERVICES FINANCE: Do pass as amended.

04/09/2018 - In HOUSE. Second Reading

MISSISSIPPI

[MS H 456](#) | 2016`

Pharmacy

Status: Enacted - Signed by Governor; **Date of Last Action:** 05/03/2016 - **Enacted**

Author: Mims (R)

Summary: Provides that a network pharmacy or pharmacist that has a contract with a pharmacy benefit manager to provide covered drugs at a negotiated reimbursement rate may decline to provide certain drugs or services if the network pays less than the acquisition cost for the product. "If the network pharmacy or pharmacist declines to provide such drug or service, the pharmacy or pharmacist shall provide the customer with adequate information as to where the prescription for the drug or service may be filled." (*Variation on gag clause, with limited applicability*)

History: 02/08/2016 - INTRODUCED.

02/16/2016 - From HOUSE Committee on PUBLIC HEALTH AND HUMAN SERVICES: Do pass.

02/29/2016 - Passed HOUSE. *****To SENATE.

03/30/2016 - Committee amendment adopted; passed SENATE. *****To HOUSE for concurrence.

04/16/2016 - CONFERENCE Committee Report adopted by HOUSE.

05/03/2016 - **Signed by GOVERNOR.**

[MS H 709](#) | 2018

Prescription Drugs Alternative

Status: Enacted - Signed by Governor Date of Last Action: 03/08/2018 - **Enacted**

Author: Mims (R) **Additional Authors:** Mettetal (R);Holloway (D);Mims (R);Arnold (R);Bain (D);Eubanks (R);Sanford (R);Sykes (D);Gibbs D (D)

Summary: Establishes the Prescription Drugs Consumer Affordable Alternative Payment Options Act; provides for pharmacist communication with patients, "Pharmacists may provide additional information to a patient to allow them an opportunity to consider affordable alternative payment options when acquiring their prescription medication. Any provision of any contract or agreement contrary to the provisions of this act shall be considered in violation of public policy and shall be void." Provides that compliance with this Act shall not constitute a violation of any contract or any agreement to which the pharmacist or pharmacy is a party, provides that a pharmacist, his agents, and employees shall not be liable for any act or failure to act under this Act.

History: 01/09/2018 – INTRODUCED; To HOUSE Committee on PUBLIC HEALTH AND HUMAN SERVICES.

02/01/2018 - Passed HOUSE. *****To SENATE.

03/08/2018 - **Signed by GOVERNOR**

[MS H 426](#) | 2018

Pharmacist No Gag Rule

Status: Failed - Died

Author: Bell C (D) **Additional Authors:** Banks (D); Karriem (D); Dortch (D); Burnett (D); Faulkner (D); Jackson L (D); Williams-Barnes (D); Clark B (D); Calhoun (D); Holloway (D); Hines (D); Paden (D)

Summary: Creates the no gag rule on pharmacists act, **History:** 01/05/2018 - INTRODUCED.

01/30/2018 - Died in committee.

MISSOURI

[MO H 1542](#) | 2018

Pharmacy Benefits Managers

Status: Passed HOUSE. *****To SENATE. (138-7)

Author: Morris (R)

Summary: Prohibits certain actions by pharmacy benefits managers. "No pharmacy benefits manager shall restrict or interfere with a pharmacist's ability to provide pharmacy care to a covered person, including providing pharmacist-patient communications and discussing alternative drug options. No pharmacy benefits manager shall charge or hold a pharmacist or pharmacy responsible for any fee that is related to a claim unless the amount of the fee can be determined and has been disclosed to the pharmacist or pharmacy at the time of the claim's adjudication."

History: 12/07/2017 - PREFILED.
01/03/2018 - INTRODUCED.
02/15/2018 - To HOUSE Committee on INSURANCE POLICY;
04/19/2018 - Passed HOUSE. *****To SENATE. (138-7)

NEBRASKA

[NE L 324](#) | 2017

Author: Mark Kolterman (NP-024)
Title: Pharmacy Benefit Fairness and Transparency
Disposition: Failed - Adjourned
Location: Banking, Commerce and Insurance Committee
Summary: Adopts the Pharmacy Benefit Fairness and Transparency Act.
Status:

01/12/2017 INTRODUCED.
01/17/2017 To Committee on BANKING, COMMERCE, AND INSURANCE.
02/02/2017 Notice of hearing for February 27, 2017.
06/07/2017 105th Legislature -- First Regular Session Adjourned - 05/23/2017 -
Carried Over to Second Regular Session; Failed

NEVADA

[NV S 539](#) | 2017

Prescription Drugs

Status: Enacted - Act No. 592

Date of Last Action:* 06/15/2017 - **Enacted**

Author: Roberson (R)

Topics: Pricing and Payment - Industry, Insurance/Coverage - Rx Drugs

Summary: Relates to prescription drugs price transparency, requiring the Department of Health and Human Services to compile lists of certain prescription drugs that are used to treat diabetes, requiring the manufacturer of a drug included on such lists and a pharmacy benefit manager to provide certain information to the Department, requiring the Department to compile a report based on such information, requiring submitting a list of each pharmaceutical sales representative who markets prescription drugs in this State. Also eliminates the “gag rule” to ensure that pharmacists and pharmacies are not prohibited from discussing less expensive drugs that will meet the needs of the patient. Health care nonprofits shall disclose contributions they receive from pharmaceutical companies by requiring the disclosure of contributions from PBMs and insurers as well. Also requires that any administrative penalties imposed on manufacturers, PBMs or nonprofits for failing to disclose the required information go toward funding diabetes education programs. *[Updated 5/1/2018]*

History: 05/16/2017 – INTRODUCED; To SENATE Committee on HEALTH AND HUMAN SERVICES.
06/03/2017 - From SENATE Committee on HEALTH AND HUMAN SERVICES: Without recommendation.
06/04/2017 - Passed SENATE. *****To ASSEMBLY.
06/05/2017 - Passed ASSEMBLY.
06/15/2017 - **Signed by GOVERNOR** as Chapter No. 592

NEW HAMPSHIRE

[NH S 354](#) and
[NH H1791](#) | 2018

Pharmacy Claim Fees and Copayments

Status: Pending - To CONFERENCE Committee.

Author: Soucy D (D) **Additional Authors:** Reagan (R); Myler (D);Hennessey (R); Luneau (I)

Summary: Prohibits a pharmacy benefits manager or insurer from charging or holding a pharmacy responsible for a fee related to a claim under certain circumstances. This bill also prohibits a pharmacy benefits manager or insurer from charging higher copayments and or inserting gag clauses in contracts.

History: 12/12/2017 – PREFILED; To SENATE Committee on COMMERCE.

01/03/2018 – INTRODUCED; To SENATE Committee on COMMERCE.

03/21/2018 S 354 Passed SENATE. *****To HOUSE.

04/26/2018 Passed HOUSE. *****To SENATE for concurrence.

05/02/2018 *****To CONFERENCE Committee.

NEW JERSEY

[NJ A 2214 &](#)

[NJ S 2438](#) | 2018

Pharmacy Benefits Manager Copayment Collection

Status: Pending - Assembly Financial Institutions and Insurance Committee

Author: Asm. Dancer (R) ; Sen. Diegnan (D)

Summary: Prohibits pharmacy benefits managers from collecting copayments in excess of certain amounts clawbacks, requires certain language prohibiting gag clauses in contracts with pharmacists.

History: 01/29/2018 - FILED.

02/01/2018 - To ASSEMBLY Committee on FINANCIAL INSTITUTIONS AND INSURANCE.

04/05/2018 S 2438 – Filed and To SENATE Committee on COMMERCE

NEW YORK

[NY A 8781](#) | 2018

Pharmacy Benefit Managers

Status: Passed [Assembly and Senate](#)

Author: Rosenthal (D) **Additional Authors:** Gottfried (D);Lavine (D);Buchwald (D);McDonald J (D);Skoufis (D)

Associated Bills: NY S 6940 - Same as

Summary: Amends the Public Health Law, prohibits pharmacy benefit managers from prohibiting pharmacies from disclosing to consumers the cost of prescription medication, the availability of alternative medications or alternative means of purchasing prescription medications, prohibits pharmacy benefit managers from collecting copayments from consumers of prescription medications.

History: 11/27/2017 - INTRODUCED - To ASSEMBLY Committee on HEALTH.

01/17/2018 - From ASSEMBLY Committee on HEALTH; To ASSEMBLY Committee on CODES.

02/05/2018 - Passed ASSEMBLY. *****To SENATE.

02/05/2018 - To SENATE Committee on HEALTH.

03/06/2018 Substituted for S6940

03/06/2018 Passed SENATE. (60-0)

[NY S 6940](#) | 2018

Pharmacy Benefit Managers

Status: Pending - SENATE

Date of Last Action:* 11/13/2017

Author: Hannon (R) **Additional Authors:** Addabbo (D);Avella (D);Carlucci (D);Akshar (R)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Associated Bills: NY A 8781 - Same as

Summary: Amends the Public Health Law, prohibits pharmacy benefit managers from prohibiting pharmacies from disclosing to consumers the cost of prescription medication, the availability of alternative medications or alternative means of purchasing prescription medications, prohibits pharmacy benefit managers from collecting copayments from consumers of prescription medications.

History: 11/13/2017 – INTRODUCED; To SENATE Committee on RULES.

02/06/2018 - From SENATE Committee on HEALTH.

03/06/2018 - Substituted by A8781 (see above)

[NY A 9893](#) | 2018

Pharmaceutical Transparency and Consumer Protection

Status: Pending - Assembly

Date of Last Action: 2/20/2018

Author: Brindisi (D) **Additional Authors:** Brindisi (D)

Associated Bills: NY S 7191 - Same as

Summary: Relates to enhancing pharmaceutical transparency and consumer protection between pharmacies and pharmacy benefit managers.

History: 02/20/2018 – INTRODUCED; To ASSEMBLY Committee on INSURANCE.

[NY S 7191](#) | 2018`

Pharmacies and Pharmacy Benefit Managers

Status: Pending - Senate

Author: Griffo (R) **Additional Authors:** Griffo (R)

Summary: Relates to enhancing pharmaceutical transparency and consumer protection between pharmacies and pharmacy benefit managers, provides that no contract for pharmacy services entered into in the state between a health insurance carrier or a pharmacy benefit manager, shall contain a provision prohibiting or penalizing, including through increased utilization review, reduced payments or other financial disincentives, a pharmacist's disclosure to an individual purchasing prescription medication.

History: 12/29/2017 – PREFILED- To SENATE Committee on HEALTH.

02/08/2018 - Amended in SENATE Committee on HEALTH.

North Carolina

[NC H 466](#) | 2017

Pharmacy Benefit Managers

Status: Enacted - Act No. 2017-116 - **Enacted**

Author: Jones Br (R) **Additional Authors:** Willingham (D)

Associated Bills: NC S 384 - Same as

Summary: Relates to the regulation of pharmacy benefit managers, provides for consumer protections and for pharmacy and pharmacist protections. "A pharmacy or pharmacist shall have the right to provide an insured information regarding the amount of the insured's cost share for a prescription drug. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for discussing any information described in this section or for selling a lower" priced drug to the insured if one is available." *Note:* Senate version, S 384 was amended by substitution to a non-health topic.

History: 03/23/2017 – FILED; 03/27/2017 - INTRODUCED.

04/25/2017 - From HOUSE Committee on INSURANCE: Reported favorably with substitute.

04/26/2017 - In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

06/28/2017 - In SENATE. Read third time. Passed SENATE.

07/18/2017 - **Signed by GOVERNOR** as Session Law Number 2017-116

North Dakota

[ND S 2258](#) | 2017

Author: Jerry Klein (R) **Additional Authors:** Keiser (R), Vigesaa (R) , Dockter (R) , Armstrong (R) , Casper (R)

Title: Pharmacy Claim Fees and Pharmacy Rights

Introduced: 01/16/2017

Enacted: 04/05/2017 - **Enacted**

Effective Date: 08/01/2017

Location: Chaptered, Act 161

Summary: Relates to pharmacy rights and pharmacy benefit managers; “A pharmacy or pharmacist may provide relevant information to a patient if the patient is acquiring prescription drugs. This information may include the cost and clinical efficacy of a more affordable alternative drug if one is available. Gag orders of such a nature placed on a pharmacy or pharmacist are prohibited.” Provides that pay for performance pharmacy networks shall utilize the electronic quality improvement platform for plans and pharmacies or other unbiased nationally recognized entity; prohibits a fee requirement from a pharmacy benefits manager if metrics fall within the criteria for improvement.

History :

01/16/2017 INTRODUCED.

02/10/2017 Passed SENATE. *****To HOUSE.

03/27/2017 From HOUSE Committee on INDUSTRY, BUSINESS AND LABOR: Do pass.

03/28/2017 Passed HOUSE.

04/05/2017 Signed by GOVERNOR

07/05/2017 Chapter Number 161

PENNSYLVANIA

[PA S 637](#) | 2018

Pharmaceutical Transparency Commission

Status: Pending - Senate

Author: White D (R)

Summary: Amends the state Insurance Company Law, revises provisions relating to the Pharmaceutical Transparency Commission, requires the Insurance Department to annually collect information on pharmaceutical retail pricing, prohibits insurer contracts from prohibiting pharmacists from disclosing information to a customer that would reduce the customer's out of pocket costs for prescription drugs.

History: 04/18/2017 – FILED; INTRODUCED.

12/13/2017 - From SENATE Committee on BANKING AND INSURANCE. Reported as amended; In SENATE. Read first time.

03/20/2018 - Rereferred to SENATE Committee on APPROPRIATIONS.

[PA H 2211](#) | 2018

Consumer Prescription Drug Pricing Disclosure

Sponsor: [Judy Ward \(R\)](#)

History: 05/29/2018 INTRODUCED; [To HOUSE Committee on HEALTH.](#)

RHODE ISLAND

[RI S 2406](#) | 2018

Prescription Drug Benefits

Status: Pending - Senate

Date of Last Action: 2/15/2018

Author: Sosnowski (D) **Additional Authors:** Miller (D); Crowley (D); Nesselbush (D)

Topics: Pharmaceutical Pricing and Payment, Cost Sharing and Deductibles

Summary: Would allow a pharmacist to provide information to patients including less expensive prescription alternatives. This act would also limit charges for drugs to the lesser of usual price or co-pay, provide restrictions on credit for insurance coverage gaps, and prohibit pharmacy benefit managers from placing a pharmacy logo to be placed on an insurance or savings cards. This act would take effect upon passage.

History: 02/15/2018 – INTRODUCED; To SENATE Committee on HEALTH AND HUMAN SERVICES.

03/01/2018 - SENATE Committee on HEALTH AND HUMAN SERVICES recommends measure to be held for further study.

SOUTH CAROLINA

SC H 5038

2018

Pharmacy Benefit Manager Duties

Status: Enacted - Act No. 177 ; **Date of Last Action:*** 05/03/2018 - **Enacted**

Author: Atwater (R) **Additional Authors:** Rutherford (D); Henderson (R); Bernstein (D); Douglas (D); Gagnon (R); Newton (R); Norrell (D); Ridgeway (D); Ott R (D); Bradley (R); Clary (R); Kirby (D); Elliott (R);Hewitt (R); Wheeler (D); (R);Tallon (R);Willis (R);Cobb-Hunter (D);Sandifer (R);Howard (D);Hayes J (D);Huggins (R);Smith G (R);Toole (R);Anthony (D);Anderson C (D);Ballentine (R);Alexander T (D);Spires (R);Erickson (R);McEachern (D);McGinnis (R)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Associated Bills: SC H 5044 - Similar; SC S 815 - Similar

Summary: Establishes prohibited acts for a pharmacy benefit manager, provides that a pharmacy benefit manager may not prohibit (by “gag clause”) a pharmacist or pharmacy from providing an insured information on the amount of the insured's cost share for a prescription drug, from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy, charge or collect a copayment, charge off hold a pharmacist or pharmacy responsible for certain fees, or retaliate for exercising rights.

History: 03/01/2018 - INTRODUCED.

03/08/2018 - From HOUSE Committee on LABOR, COMMERCE AND INDUSTRY: Reported favorably with amendment.

03/22/2018 - Passed HOUSE. *****To SENATE.

04/26/2018 - Passed SENATE.

05/03/2018 - Signed by GOVERNOR.

05/14/2018 - Act No. 177

SOUTH DAKOTA

SD S 141

2018

Pharmacy Benefits Managers

Status: Enacted - Signed by Governor; **Date of Last Action:** 02/27/2018 - **Enacted**

Author: Solano (R) **Additional Authors:** Peters (R);Gosch S (R);Steinhauer (R);Rusch (R);Peterson K (R);McCleerey (D);Stevens (R);Sutton (D);Willadsen (R);Cronin (R);Maher (R);Lake (R)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Summary: Establishes provisions regarding pharmacy benefits management. “A pharmacy benefits manager may neither prohibit nor penalize a pharmacist or pharmacy for providing cost-sharing information on the amount a covered individual may pay for a particular prescription drug.” Such acts are declared to be false, misleading, deceptive, or unfair.”

History: 01/24/2018 - INTRODUCED.

02/02/2018 - From SENATE Committee on HEALTH AND HUMAN SERVICES: Do pass.

02/05/2018 - Passed SENATE. *****To HOUSE.

02/08/2018 - From HOUSE Committee on HEALTH AND HUMAN SERVICES: Do pass.

02/12/2018 - Passed HOUSE.

02/27/2018 - **Signed by GOVERNOR.**

TEXAS

TX S 94 | 2015

Pharmacy Benefit Claims

Last Action: 05/15/2015 - **Enacted** - Act No. 10

Author: Hinojosa (D)

Summary: Prohibits a health benefit plan issuer or a PBM from charging or holding a pharmacist or pharmacy responsible for a fee for any step of or component or mechanism related to the claim adjudication process, including the adjudication of a pharmacy benefit claim, the processing or transmission of a pharmacy benefit claim, the development or management of a claim processing or adjudication network, or the participation in a claim processing or adjudication network. (No “clawback payments”)

History: 04/09/2015 - Passed SENATE. *****To HOUSE.

05/01/2015 - Passed HOUSE.

05/15/2015 - **Signed by GOVERNOR.**

06/23/2015 - Filed with Secretary of State.

UTAH

UT S 208

2018

Pharmacy Benefits Manager or Coordinator Amendments

Status: Signed by Governor - 04/02/2018 **Enacted**

Author: Vickers (R)

Summary: Amends the Pharmacy Practice Act, requires a pharmacy benefits manager or coordinator that uses direct or indirect remuneration to report certain information to pharmacies, prohibits a pharmacy benefits manager or coordinator from preventing a pharmacist from disclosing cost information to a patient.

History: 02/20/2018 – INTRODUCED; 02/20/2018 - From SENATE Committee on RULES. To SENATE Standing Committee.

02/22/2018 - From SENATE Committee on HEALTH AND HUMAN SERVICES: Reported favorably as substituted.

02/28/2018 - Passed SENATE. *****To HOUSE.

03/07/2018 - Substituted on HOUSE floor.

03/07/2018 - Passed HOUSE. *****To SENATE for concurrence.

03/19/2018 - **Signed by GOVERNOR;** 04/02/2018 - Chaptered. Chapter No. 305

VERMONT

VT H 886

2018

Prescription Drug Price Disclosure

Status: Pending - House

Author: Harrison (R)

Summary: Relates to allowing pharmacists to disclose the cash price of prescription drugs. Prohibits any provision in a contract (gag clauses) between a pharmacy benefit manager or other entity paying pharmacy claims and a pharmacy that would limit a pharmacist's ability to disclose to a customer the cash price of a prescription drug.

History:

02/06/2018 - INTRODUCED.

02/07/2018 - To HOUSE Committee on HEALTH CARE.

VIRGINIA

VA H 1177

2018`

Pharmacists and Pharmacy Practices

Status: Signed by GOVERNOR. - **Enacted**

Author: Pillion (R) **Additional Authors:** Byron (R); Kilgore (R); Hodges (R); O'Quinn (R); Ransone (R)

Summary: Relates to pharmacists and pharmacy practices, prohibits a pharmacy benefits manager from prohibiting a pharmacist or pharmacy from providing an enrollee individual information on the amount of the enrollee's cost share for the enrollee's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available.

History:

01/10/2018 - INTRODUCED.

02/06/2018 - Engrossed by HOUSE as substituted.

02/07/2018 - **Passed HOUSE.** ***** Passed Senate (40-0) 02/22/2018

03/09/2018 - **Signed by GOVERNOR** as Acts of Assembly Chapter No. 245

WASHINGTON

WA S 6026

2018

Prescription Drugs

Status: Failed - Adjourned - Senate Ways and Means Committee

Author: Kuderer (D)

Summary: Prohibits health carriers and pharmacy benefit managers from using "gag clause" contracts to prevent pharmacists from telling their customers about cheaper ways to buy prescription drugs

History: 12/15/2017 - PREFILED.

01/08/2018 – INTRODUCED; To SENATE Committee on HEALTH CARE & LONG TERM CARE.

01/11/2018 - Public hearing scheduled.; 01/22/2018 - Public hearing scheduled.

01/29/2018 - From SENATE Committee on HEALTH CARE & LONG TERM CARE: Do pass as substituted.

01/30/2018 - To SENATE Committee on WAYS AND MEANS.

02/05/2018 - Public hearing scheduled.; Failed - Adjourned

[WA HB 2296](#)

Status - Failed - Adjourned - HOUSE

Author: Rep. Vandana Slatter

Summary: Protects consumers from excess charges for prescription medication. Bans the use of 'gag clauses' stating that a contract between a health carrier or a pharmacy benefit manager and a pharmacist or pharmacy may not penalize, including through increased utilization review, reduced payments, or other financial disincentives, a pharmacist's or pharmacy's disclosure to a person purchasing prescription medication of information regarding the cost of the prescription medication or the availability of any therapeutically equivalent alternative medications or alternative methods of purchasing the prescription medication including, but not limited to, paying the cash price."

History:

12/15/2017 - PREFILED.

01/08/2018 - INTRODUCED.

01/08/2018 - To HOUSE Committee on HEALTH CARE AND WELLNESS.

01/31/2018 - From HOUSE Committee on HEALTH CARE AND WELLNESS: Do pass as substituted.

02/08/2018 - Committee substitute adopted on HOUSE floor.

02/08/2018 - Passed HOUSE. *****To SENATE.

02/22/2018- From SENATE Committee on HEALTH CARE & LONG TERM CARE: Do pass.

02/23/2018- In SENATE: Passed to RULES Committee for 2nd Reading; 3/8/2018- Failed - Adjourned - HOUSE

WEST VIRGINIA

[WV S 46](#)

2018

Prescribed Drugs Cost Alternatives Information

Status: - Signed by Governor, 03/21/2018 - **Enacted**

Author: Cline (R)

Topics: Pharmaceutical Pricing and Payment, Cost Sharing and Deductibles

Summary: Permits pharmacists to inform customers of lower cost alternative drugs.

History: [Click for History](#)

01/10/2018 – INTRODUCED; To SENATE Committee on HEALTH AND HUMAN RESOURCES.

01/26/2018 - From SENATE Committee on HEALTH AND HUMAN RESOURCES: Do pass as substituted.

01/31/2018 - Passed SENATE. *****To HOUSE.

03/02/2018 - Passed HOUSE. *****To SENATE for concurrence.

03/10/2018 - CONFERENCE Committee Report adopted by HOUSE and SENATE.

03/21/2018 - **Signed by GOVERNOR.**

WISCONSIN

[WI A 800, 2018 and](#)

[WI S 669](#)

Prescription Drug Cost Disclosure

Status: Failed - Failed to Pass

Date of Last Action:* 12/28/2017

Author: Hebl G (D) **Additional Authors:** Berceau (D);Anderson J (D);Subeck (D);Spreitzer (D);Meyers (D);Shankland (D);Sargent (D);Kolste (D);Taylor C (D);Zamarripa (D);Bewley (D);Milroy (D);Vinehout (D);Taylor L (D);Zepnick (D);Pope (D);Risser (D);Vruwink (D)
Topics: Pricing and Payment - Industry, Insurance/Coverage - Rx Drugs, Pharmacy Benefit Managers (PBM)
Associated Bills: WI S 669 - See Also

Summary: Relates to disclosures of prescription drug costs under health insurance policies and plans. No self-insured health plan that provides a prescription drug benefit may include in a contract for pharmacy services, or allow a pharmacy benefit manager (PBM) or another entity to include in a contract for pharmacy services, a provision that prohibits or penalizes, including by increased utilization review, reduced reimbursement, or other financial disincentives, "a disclosure of any of the following by a pharmacist to an individual purchasing a prescribed drug or device: (a) The cost of the prescribed drug or device to the individual. (b) The availability of any therapeutically equivalent alternative prescribed drugs."

History: 12/28/2017 - INTRODUCED.

12/28/2017 - To ASSEMBLY Committee on INSURANCE.

03/28/2018 - Failed to pass pursuant to Senate Joint Resolution

03/28/2018 – S 669 and A 800 Failed to pass pursuant to Senate Joint Resolution 1.

WYOMING

WY H 107

2018

Pharmacy Benefit Managers

Status: Failed - Withdrawn from further consideration

Date of Last Action:* 2/12/2018

Author: Kirkbride (R) **Additional Authors:** Zwonitzer Dan (R);Larsen (R);Blackburn (R);Pappas (R);Boner (R);Brown L (R);Furphy (R);Sweeney (R)

Topics: Pricing and Payment - Industry, Pharmacy Benefit Managers (PBM)

Summary: Relates to pharmacy benefit managers, prohibits specified practices by pharmacy benefit managers and insurers, authorizes specified audits, establishes civil liability for specified violations, makes conforming amendments, specifies applicability of certain provisions, provides for an effective date.

History: 02/06/2018 - PREFILED.

02/12/2018 - INTRODUCED.

02/13/2018 - Withdrawn from further consideration.

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