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CS/CS/HB 351

2018 Legislature

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2 An act relating to prescription drug pricing
3 transparency; amending s. 465.0244, F.S.; requiring
4 pharmacists to inform customers of certain generically
5 equivalent drug products and whether cost-sharing
6 obligations to such customers exceed the retail price
7 of the prescription; repealing s. 465.1862, F.S.,
8 relating to pharmacy benefit manager contracts;
9 creating s. 624.490, F.S.; defining the term "pharmacy
10 benefit manager"; requiring registration of pharmacy
11 benefit managers with the Office of Insurance
12 Regulation; providing registration requirements;
13 requiring the registrant to report changes to certain
14 information by a specified date; requiring the office
15 to issue a registration certificate upon receipt of a
16 completed registration form; providing for expiration
17 of a registration certificate; requiring rulemaking;
18 creating ss. 627.64741, 627.6572, and 641.314, F.S.;
19 defining the terms "maximum allowable cost" and
20 "pharmacy benefit manager"; requiring certain terms in
21 health insurer or health maintenance organization
22 contracts with pharmacy benefit managers; providing
23 applicability; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 465.0244, Florida Statutes, is amended to read:

465.0244 Information disclosure.—

(1) Every pharmacy shall make available on its website a hyperlink to the health information that is disseminated by the Agency for Health Care Administration pursuant to s. 408.05(3) and shall place in the area where customers receive filled prescriptions notice that such information is available electronically and the address of its Internet website.

(2) In addition to the requirements of s. 465.025, a pharmacist or her or his authorized employee must inform customers of a less expensive, generically equivalent drug product for her or his prescription and whether the cost-sharing obligation to the customer exceeds the retail price of the prescription in the absence of prescription drug coverage.

Section 2. Section 465.1862, Florida Statutes, is repealed.

Section 3. Section 624.490, Florida Statutes, is created to read:

624.490 Registration of pharmacy benefit managers.—

(1) As used in this section, the term "pharmacy benefit manager" means a person or entity doing business in this state which contracts to administer prescription drug benefits on behalf of a health insurer or a health maintenance organization

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51 to residents of this state.

52 (2) Effective January 1, 2019, to conduct business in this
 53 state, a pharmacy benefit manager must register with the office.

54 To initially register or renew a registration, a pharmacy
 55 benefit manager shall submit:

56 (a) A nonrefundable fee not to exceed \$500.

57 (b) A copy of the registrant's corporate charter, articles
 58 of incorporation, or other charter document.

59 (c) A completed registration form adopted by the
 60 commission containing:

61 1. The name and address of the registrant.

62 2. The name, address, and official position of each
 63 officer and director of the registrant.

64 (3) The registrant shall report any change in information
 65 required by subsection (2) to the office in writing within 60
 66 days after the change occurs.

67 (4) Upon receipt of a completed registration form, the
 68 required documents, and the registration fee, the office shall
 69 issue a registration certificate. The certificate may be in
 70 paper or electronic form, and shall clearly indicate the
 71 expiration date of the registration. Registration certificates
 72 are nontransferable.

73 (5) A registration certificate is valid for 2 years after
 74 its date of issue. The commission shall adopt by rule an initial
 75 registration fee not to exceed \$500 and a registration renewal

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76 | fee not to exceed \$500, both of which shall be nonrefundable.
 77 | Total fees may not exceed the cost of administering this
 78 | section.

79 | (6) The commission shall adopt rules necessary to
 80 | implement this section.

81 | Section 4. Section 627.64741, Florida Statutes, is created
 82 | to read:

83 | 627.64741 Pharmacy benefit manager contracts.-

84 | (1) As used in this section, the term:

85 | (a) "Maximum allowable cost" means the per-unit amount
 86 | that a pharmacy benefit manager reimburses a pharmacist for a
 87 | prescription drug, excluding dispensing fees, prior to the
 88 | application of copayments, coinsurance, and other cost-sharing
 89 | charges, if any.

90 | (b) "Pharmacy benefit manager" means a person or entity
 91 | doing business in this state which contracts to administer or
 92 | manage prescription drug benefits on behalf of a health insurer
 93 | to residents of this state.

94 | (2) A contract between a health insurer and a pharmacy
 95 | benefit manager must require that the pharmacy benefit manager:

96 | (a) Update maximum allowable cost pricing information at
 97 | least every 7 calendar days.

98 | (b) Maintain a process that will, in a timely manner,
 99 | eliminate drugs from maximum allowable cost lists or modify drug
 100 | prices to remain consistent with changes in pricing data used in

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101 formulating maximum allowable cost prices and product
 102 availability.

103 (3) A contract between a health insurer and a pharmacy
 104 benefit manager must prohibit the pharmacy benefit manager from
 105 limiting a pharmacist's ability to disclose whether the cost-
 106 sharing obligation exceeds the retail price for a covered
 107 prescription drug, and the availability of a more affordable
 108 alternative drug, pursuant to s. 465.0244.

109 (4) A contract between a health insurer and a pharmacy
 110 benefit manager must prohibit the pharmacy benefit manager from
 111 requiring an insured to make a payment for a prescription drug
 112 at the point of sale in an amount that exceeds the lesser of:

113 (a) The applicable cost-sharing amount; or

114 (b) The retail price of the drug in the absence of
 115 prescription drug coverage.

116 (5) This section applies to contracts entered into or
 117 renewed on or after July 1, 2018.

118 Section 5. Section 627.6572, Florida Statutes, is created
 119 to read:

120 627.6572 Pharmacy benefit manager contracts.—

121 (1) As used in this section, the term:

122 (a) "Maximum allowable cost" means the per-unit amount
 123 that a pharmacy benefit manager reimburses a pharmacist for a
 124 prescription drug, excluding dispensing fees, prior to the
 125 application of copayments, coinsurance, and other cost-sharing

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126 | charges, if any.

127 | (b) "Pharmacy benefit manager" means a person or entity
 128 | doing business in this state which contracts to administer or
 129 | manage prescription drug benefits on behalf of a health insurer
 130 | to residents of this state.

131 | (2) A contract between a health insurer and a pharmacy
 132 | benefit manager must require that the pharmacy benefit manager:

133 | (a) Update maximum allowable cost pricing information at
 134 | least every 7 calendar days.

135 | (b) Maintain a process that will, in a timely manner,
 136 | eliminate drugs from maximum allowable cost lists or modify drug
 137 | prices to remain consistent with changes in pricing data used in
 138 | formulating maximum allowable cost prices and product
 139 | availability.

140 | (3) A contract between a health insurer and a pharmacy
 141 | benefit manager must prohibit the pharmacy benefit manager from
 142 | limiting a pharmacist's ability to disclose whether the cost-
 143 | sharing obligation exceeds the retail price for a covered
 144 | prescription drug, and the availability of a more affordable
 145 | alternative drug, pursuant to s. 465.0244.

146 | (4) A contract between a health insurer and a pharmacy
 147 | benefit manager must prohibit the pharmacy benefit manager from
 148 | requiring an insured to make a payment for a prescription drug
 149 | at the point of sale in an amount that exceeds the lesser of:

150 | (a) The applicable cost-sharing amount; or

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151 (b) The retail price of the drug in the absence of
 152 prescription drug coverage.

153 (5) This section applies to contracts entered into or
 154 renewed on or after July 1, 2018.

155 Section 6. Section 641.314, Florida Statutes, is created
 156 to read:

157 641.314 Pharmacy benefit manager contracts.—

158 (1) As used in this section, the term:

159 (a) "Maximum allowable cost" means the per-unit amount
 160 that a pharmacy benefit manager reimburses a pharmacist for a
 161 prescription drug, excluding dispensing fees, prior to the
 162 application of copayments, coinsurance, and other cost-sharing
 163 charges, if any.

164 (b) "Pharmacy benefit manager" means a person or entity
 165 doing business in this state which contracts to administer or
 166 manage prescription drug benefits on behalf of a health
 167 maintenance organization to residents of this state.

168 (2) A contract between a health maintenance organization
 169 and a pharmacy benefit manager must require that the pharmacy
 170 benefit manager:

171 (a) Update maximum allowable cost pricing information at
 172 least every 7 calendar days.

173 (b) Maintain a process that will, in a timely manner,
 174 eliminate drugs from maximum allowable cost lists or modify drug
 175 prices to remain consistent with changes in pricing data used in

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176 formulating maximum allowable cost prices and product
 177 availability.

178 (3) A contract between a health maintenance organization
 179 and a pharmacy benefit manager must prohibit the pharmacy
 180 benefit manager from limiting a pharmacist's ability to disclose
 181 whether the cost-sharing obligation exceeds the retail price for
 182 a covered prescription drug, and the availability of a more
 183 affordable alternative drug, pursuant to s. 465.0244.

184 (4) A contract between a health maintenance organization
 185 and a pharmacy benefit manager must prohibit the pharmacy
 186 benefit manager from requiring a subscriber to make a payment
 187 for a prescription drug at the point of sale in an amount that
 188 exceeds the lesser of:

189 (a) The applicable cost-sharing amount; or

190 (b) The retail price of the drug in the absence of
 191 prescription drug coverage.

192 (5) This section applies to contracts entered into or
 193 renewed on or after July 1, 2018.

194 Section 7. This act shall take effect July 1, 2018.