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A bill to be entitled

An act relating to pharmacy benefit managers; creating s. 465.189, F.S.; establishing standards and criteria for regulation and licensing of pharmacy benefit managers; providing a popular name; providing purpose, intent, and applicability; providing definitions; requiring a biennial certificate of authority and an annual license; providing rulemaking authority to the Board of Pharmacy and the Office of Insurance Regulation; requiring an annual statement; providing for financial examinations; providing for assessments and fees; providing for pharmacy benefit manager contracts; providing for enforcement; providing for medication reimbursement costs; specifying prohibited practices; preserving existing contracts and providing prospective application for new contracts; providing for control over conflicting provisions of law; providing an effective date.

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

Section 1. Section 465.189, Florida Statutes, is created to read:

465.189 Pharmacy benefit managers.--

(1) POPULAR NAME.--This section shall be known by the popular name the "Florida Pharmacy Benefit Management Regulation Act."

(2) PURPOSE AND INTENT; APPLICABILITY.--

(a)1. This section establishes standards and criteria for the regulation and licensing of pharmacy benefit managers.

2. The purpose of this section is to:



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31 a. Promote, preserve, and protect the public health,
32 safety, and welfare through effective regulation and licensing
33 of pharmacy benefit managers.

34 b. Provide for certain powers and duties for certain state
35 agencies and officers.

36 c. Prescribe penalties for violations of this section.

37 (b) A pharmacy benefit manager is subject to this section
38 if the pharmacy benefit manager provides claims-processing
39 services, other prescription drug or device services, or both,
40 to patients who are residents of this state.

41 (c) A pharmacy benefit manager may not do business or
42 provide services in this state unless the pharmacy benefit
43 manager is in full compliance with this section.

44 (3) DEFINITIONS.--For purposes of this section:

45 (a) "Board" means the Board of Pharmacy.

46 (b) "Cease and desist order" means an order of the board
47 or office prohibiting a pharmacy benefit manager or other person
48 or entity from continuing a particular course of conduct that
49 violates this section or rules adopted under this section.

50 (c) "Claims-processing services" means the administrative
51 services performed in connection with the processing and
52 adjudication of claims relating to pharmacist's services,
53 including, but not limited to, making payments to pharmacists
54 and pharmacies.

55 (d) "Maintenance drug" means a drug prescribed by a
56 practitioner who is licensed to prescribe drugs and used to
57 treat a medical condition for a period greater than 30 days.

58 (e) "Multi-source drug" means a drug that is stocked and
59 available from three or more suppliers.

60 (f) "Office" means the Office of Insurance Regulation of



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61 the Financial Services Commission.

62 (g) "Other prescription drug or device services" means
63 services other than claims-processing services, provided
64 directly or indirectly by a pharmacy benefit manager, whether in
65 connection with or separate from claims-processing services,
66 including, but not limited to:

67 1. Negotiating rebates, discounts, or other financial
68 incentives and arrangements with drug companies.

69 2. Disbursing or distributing rebates.

70 3. Managing or participating in incentive programs or
71 arrangements for pharmacist's services.

72 4. Negotiating or entering into contractual arrangements
73 with pharmacists or pharmacies, or both.

74 5. Developing formularies.

75 6. Designing prescription benefit programs.

76 7. Advertising or promoting claims-processing services or
77 other prescription drug or device services.

78 (h) "Pharmacist" means an individual licensed as a
79 pharmacist under this chapter.

80 (i) "Pharmacist's services" means the practice of the
81 profession of pharmacy as defined in s. 465.003.

82 (j) "Pharmacy" means pharmacy as defined in s. 465.003.

83 (k)1. "Pharmacy benefit manager" means a person, business,
84 or other entity, and any wholly or partially owned or controlled
85 subsidiary of a pharmacy benefit manager, that provides claims-
86 processing services or other prescription drug or device
87 services, or both, to third parties.

88 2. "Pharmacy benefit manager" does not include licensed
89 health care facilities, pharmacies, licensed health care
90 professionals, insurance companies, unions, or health



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91 maintenance organizations.

92 (1) "Single-source drug" means a drug that is not a multi-
93 source drug.

94 (m)1. "Third parties" means any person, business, or other
95 entity other than a pharmacy benefit manager.

96 2. "Third parties" does not include:

97 a. A person, business, or other entity that owns or holds
98 a controlling interest in the pharmacy benefit manager; or

99 b. A person, business, or other entity in which the
100 pharmacy benefit manager owns or holds a controlling interest.

101 (n) "Usual and customary price" means the price that a
102 pharmacist or pharmacy would have charged cash-paying patients,
103 excluding patients for whom reimbursement rates are set by
104 contract, for the same services on the same date.

105 (4) CERTIFICATE OF AUTHORITY.--

106 (a)1. No person or organization shall establish or operate
107 as a pharmacy benefit manager in this state without obtaining a
108 certificate of authority from the board in accordance with this
109 section and all applicable federal and state laws.

110 2. A pharmacy benefit manager doing business in this state
111 shall obtain a certificate of authority from the board within
112 120 days after the effective date of this section and every 2
113 years thereafter. The certificate of authority shall expire on
114 December 31 in the year following the year the certificate of
115 authority was first issued and then may be renewed for
116 successive 2-year periods.

117 (b)1. Any organization or person may apply to the board to
118 obtain a certificate of authority to establish and operate a
119 pharmacy benefit manager under this section.

120 2. A nonrefundable application fee of \$300, payable to the



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121 board, shall accompany each application for a certificate of
122 authority and each application for renewal of a certificate of
123 authority.

124 (c) The board shall not issue a certificate of authority
125 to any pharmacy benefit manager until the board is satisfied
126 that the pharmacy benefit manager:

127 1. Holds a current license issued by the office to do
128 business in this state as a pharmacy benefit manager.

129 2. Is ready and able to arrange for pharmacist's services
130 in this state.

131 3. Meets the requirements set forth in this section and in
132 rules adopted under this section.

133 4. Is in compliance with all applicable state and federal
134 laws and regulations.

135 (d) The board may suspend or revoke any certificate of
136 authority issued to a pharmacy benefit manager under this
137 section, deny an application for a certificate of authority to
138 an applicant, or deny an application for renewal of a
139 certificate of authority if it finds that:

140 1. The pharmacy benefit manager is operating materially in
141 contravention of:

142 a. Its application or other information submitted as a
143 part of its application for a certificate of authority or
144 renewal of its certificate of authority; or

145 b. Any condition imposed by the board with regard to the
146 issuance or renewal of its certificate of authority;

147 2. The pharmacy benefit manager does not arrange for
148 pharmacist's services;

149 3. The pharmacy benefit manager has failed to continuously
150 meet the requirements for issuance of a certificate of authority



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151 as set forth in this section or any rules adopted under this
152 section;

153 4. The pharmacy benefit manager has otherwise failed to
154 substantially comply with this section or any rules adopted
155 under this section;

156 5. The continued operation of the pharmacy benefit manager
157 may be hazardous to patients; or

158 6. The pharmacy benefit manager has failed to
159 substantially comply with any applicable state or federal law or
160 regulation.

161 (e)1. When the certificate of authority of a pharmacy
162 benefit manager is revoked, the manager shall:

163 a. Proceed, immediately following the effective date of
164 the order of revocation, to wind up its affairs.

165 b. Conduct no further business except as may be essential
166 to the orderly conclusion of its affairs.

167 2. The board may permit any further operation of the
168 pharmacy benefit manager as the board may find to be in the best
169 interest of patients to the end that patients will have the
170 greatest practical opportunity to obtain pharmacist's services.

171 (5) LICENSE TO DO BUSINESS.--

172 (a)1. No person or organization shall establish or operate
173 as a pharmacy benefit manager in this state without first
174 obtaining a license from the office in accordance with this
175 section and all applicable federal and state laws.

176 2. A pharmacy benefit manager doing business in this state
177 shall obtain a license from the office within 60 days after the
178 effective date of this section and each year thereafter.

179 (b)1. An application for a license to operate in this
180 state as a pharmacy benefit manager shall be in a form



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181 prescribed by the office and shall be verified by an officer or
182 authorized representative of the pharmacy benefit manager.

183 2. The application shall include at least the following:

184 a. All organizational documents, including, but not
185 limited to, articles of incorporation, bylaws, and other similar
186 documents and any amendments.

187 b. The names, addresses, and titles of individuals
188 responsible for the business and services provided, including
189 all claims-processing services and other prescription drug or
190 device services.

191 c. The names, addresses, titles, and qualifications of the
192 members and officers of the board of directors, board of
193 trustees, or other governing body or committee, or the partners
194 or owners in case of a partnership, other entity, or
195 association.

196 d. A detailed description of the claims-processing
197 services and other prescription drug or device services provided
198 or to be provided.

199 e. The name and address of the agent for service of
200 process in this state.

201 f. Financial statements for the current and the preceding
202 year showing the assets, liabilities, direct or indirect income,
203 and any other sources of financial support sufficient, as deemed
204 by the office, to show financial stability and viability to meet
205 its full obligations to pharmacies and pharmacists.

206 g. A bond in an amount determined by the office by rule to
207 ensure that funds received by the pharmacy benefit manager for
208 pharmacist's services are, in fact, paid to appropriate
209 pharmacies and pharmacists.

210 h. All incentive arrangements or programs such as rebates,



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211 discounts, disbursements, or any other similar financial program
212 or arrangement relating to income or consideration received or
213 negotiated, directly or indirectly, with any pharmaceutical
214 company that relates to other prescription drug or device
215 services, including, but not limited to:

216 (I) Information on the formula or other method for
217 calculation and amount of the incentive arrangements, rebates,
218 or other disbursements.

219 (II) The identity of the associated drug or device.

220 (III) The dates and amounts of the disbursements.

221 i. Other information as the office may require.

222 (c) The office shall not issue an annual pharmacy benefit
223 manager license to do business in this state to any pharmacy
224 benefit manager until the office is satisfied that the pharmacy
225 benefit manager has:

226 1. Paid all fees, taxes, and charges required by law.

227 2. Filed a financial statement or statements and any
228 reports, certificates, or other documents the office considers
229 necessary to secure a full and accurate knowledge of the
230 pharmacy benefit manager's affairs and financial condition.

231 3.a. Established its solvency.

232 b. Satisfied the office that the pharmacy benefit
233 manager's financial condition, method of operation, and manner
234 of doing business make it possible for the pharmacy benefit
235 manager to meet its obligations to pharmacies and pharmacists.

236 4. Otherwise complied with all the requirements of law.

237 5. Obtained a bond in an amount determined by the office
238 to ensure that funds received by the pharmacy benefit manager
239 for pharmacist's services are, in fact, paid to appropriate
240 pharmacies and pharmacists.



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241 (d)1. The annual pharmacy benefit manager license shall be
242 in addition to the certificate of authority issued by the board.

243 2. A nonrefundable license application fee of \$500 shall
244 accompany each application for a license to transact business in
245 this state.

246 3. The fee shall be collected by the office and paid
247 directly into the Insurance Commissioner's Regulatory Trust Fund
248 to provide expenses for the regulation, supervision, and
249 examination of all entities subject to regulation under this
250 section.

251 (e) The pharmacy benefit manager license shall be signed
252 by the office or an authorized agent of the office and shall
253 expire 1 year after the date the license becomes effective.

254 (f)1. A pharmacy benefit manager transacting business in
255 this state shall obtain an annual renewal of its license from
256 the office.

257 2. The office may refuse to renew the license of any
258 pharmacy benefit manager or may renew the license, subject to
259 any restrictions considered appropriate by the office, if the
260 office finds that the pharmacy benefit manager has not satisfied
261 all the conditions stated in this section.

262 3.a. Before denying renewal of a license, the office shall
263 provide the pharmacy benefit manager:

264 (I) At least 10 days' advance notice of the denial.

265 (II) An opportunity to appear at a formal or informal
266 hearing.

267 b. The office and the pharmacy benefit manager may jointly
268 waive the required notice.

269 (6) RULES.--

270 (a) The board may adopt rules not inconsistent with this



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271 section regulating pharmacy benefit managers with regard to
272 professional, public health, and public safety issues.

273 (b) The office may adopt rules not inconsistent with this
274 section regulating pharmacy benefit managers with regard to
275 business and financial issues.

276 (c) Rules adopted under this section may set penalties,
277 including, but not limited to, monetary fines, for violations of
278 this section and rules adopted under this section.

279 (7) ANNUAL STATEMENT.--

280 (a)1. A pharmacy benefit manager doing business in this
281 state shall file a statement with the office annually by March
282 1.

283 2. The statement shall be verified by at least two
284 principal officers of the pharmacy benefit manager and shall
285 cover the preceding calendar year.

286 (b) The statement shall be on forms prescribed by the
287 office and shall include:

288 1. A financial statement of the organization, including
289 its balance sheet and income statement for the preceding year.

290 2. The number and dollar value of claims for pharmacist's
291 services processed by the pharmacy benefit manager during the
292 preceding year with respect to patients who are residents of
293 this state.

294 3. Any other information relating to the operations of the
295 pharmacy benefit manager required by the office.

296 (c) If a pharmacy benefit manager is audited annually by
297 an independent certified public accountant, a copy of each
298 certified audit report shall be promptly filed with the office.

299 (d)1. The office may extend the time prescribed for any
300 pharmacy benefit manager for filing annual statements or other



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301 reports or exhibits for good cause shown.

302 2. The office may not extend the time for filing annual
303 statements beyond 60 days after the time prescribed in this
304 section.

305 3. Until the annual statement is filed, the office may
306 revoke or suspend the license of a pharmacy benefit manager that
307 fails to file its annual statement within the time prescribed by
308 this section.

309 (8) FINANCIAL EXAMINATION.--

310 (a)1. The office shall regularly conduct financial
311 examinations of all pharmacy benefit managers doing business in
312 this state pursuant to a schedule and in a manner established by
313 rule.

314 2. The examination shall verify:

315 a. The financial ability of the pharmacy benefit manager
316 to meet its full obligations to pharmacies and pharmacists.

317 b. Information submitted to the office as a part of an
318 application for a license or renewal of a license.

319 c. Compliance with this section.

320 (b) In lieu of, or in addition to, making the financial
321 examination of a pharmacy benefit manager, the office may accept
322 the report of a financial examination of the pharmacy benefit
323 manager under the laws of another state certified by its
324 insurance office, similar regulatory agency, or state health
325 agency to the extent that the report of financial examination
326 covers the minimum requirements specified in paragraph (a).

327 (c)1. The office shall coordinate financial examinations
328 of pharmacy benefit managers to ensure an appropriate level of
329 regulatory oversight and to avoid any undue duplication of
330 effort or regulation.



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331 2. The pharmacy benefit manager being examined shall pay
332 the cost of the examination.

333 3. The cost of the examination shall be deposited into the
334 Insurance Commissioner's Regulatory Trust Fund to provide all
335 expenses for the regulation, supervision, and examination of all
336 entities subject to regulation under this section.

337 (9) ASSESSMENT.--

338 (a) Except as provided in subparagraph (8)(c)3., the
339 expense of administering this section incurred by the office
340 shall be assessed annually by the office against all pharmacy
341 benefit managers operating in this state.

342 (b) The office shall assess each pharmacy benefit manager
343 annually for its share of the office's estimated expenses with
344 regard to this section in proportion to the business done in
345 this state, as determined by the office in the office's
346 reasonable discretion.

347 (c)1. The office shall give each pharmacy benefit manager
348 notice of the assessment, which shall be paid to the office
349 before March 2 of each year.

350 2. A pharmacy benefit manager that fails to pay the
351 assessment before March 2 of each year shall be subject to a
352 penalty imposed by the office.

353 3. The penalty shall be 10 percent of the assessment plus
354 interest for the period between the due date and the date of
355 full payment.

356 4. If a payment is made in an amount later found to be in
357 error, the office shall:

358 a. If an additional amount is due:

359 (I) Notify the pharmacy benefit manager of the additional
360 amount due.



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361 (II) Order the pharmacy benefit manager to pay the
362 additional amount within 14 days after the date of the notice.

363 b. If an overpayment is made, order a refund to the
364 pharmacy benefit manager.

365 (d)1. If an assessment made under this section is not paid
366 to the office by the prescribed date, the amount of the
367 assessment, plus any penalty, may be recovered from the
368 defaulting pharmacy benefit manager on motion of the office made
369 in the name and for the use of the State of Florida in the
370 Circuit Court of Leon County, after 10 days' notice to the
371 pharmacy benefit manager.

372 2. The license of any defaulting pharmacy benefit manager
373 to transact business in this state may be revoked or suspended
374 by the office until the pharmacy benefit manager has paid the
375 assessment.

376 (e) All fees assessed under this section and paid to the
377 office shall be deposited into the Insurance Commissioner's
378 Regulatory Trust Fund to provide all expenses for the
379 regulation, supervision, and examination by the office of all
380 entities subject to regulation under this section.

381 (f) If a pharmacy benefit manager becomes insolvent or
382 ceases to do business in this state in any assessable or license
383 year, the pharmacy benefit manager shall remain liable for the
384 payment of the assessment for the period in which it operated as
385 a pharmacy benefit manager in this state.

386 (10) PHARMACY BENEFIT MANAGER CONTRACTS.--

387 (a)1. A pharmacy benefit manager that contracts with a
388 pharmacy or pharmacist to provide pharmacist's services in this
389 state shall first inform the pharmacy or pharmacist in writing
390 of the number of, and other relevant information concerning,



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391 patients to be served by the pharmacy or pharmacist under the
392 contract.

393 2. There shall be a separate contract with each pharmacy
394 or pharmacist for each of the pharmacy benefit manager's
395 provider networks.

396 3. Contracts providing for indemnity of the pharmacy or
397 pharmacist shall be separate from contracts providing for cash
398 discounts.

399 4. A pharmacy benefit manager shall not require that a
400 pharmacy or pharmacist participate in one contract in order to
401 participate in another contract.

402 (b) Each pharmacy benefit manager shall provide contracts
403 to the pharmacies and pharmacists that are written in plain
404 English, using terms that will be generally understood by
405 pharmacists.

406 (c) All contracts between a pharmacy benefit manager and a
407 pharmacy or pharmacist shall provide specific time limits for
408 the pharmacy benefit manager to pay the pharmacy or pharmacist
409 for pharmacist's services rendered.

410 (d) No pharmacy benefit manager contract may mandate that
411 any pharmacy or pharmacist change a patient's maintenance drug
412 unless the prescribing practitioner so orders.

413 (e)1. In handling moneys received by the pharmacy benefit
414 manager for pharmacist's services, the pharmacy benefit manager
415 acts as a fiduciary of the pharmacy, pharmacist, or both, that
416 provided the pharmacist's services.

417 2. A pharmacy benefit manager shall distribute all moneys
418 the pharmacy benefit manager receives for pharmacist's services
419 to the pharmacies and pharmacists that provided the pharmacist's
420 services and shall do so within a time established by the



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421 office.

422 (f)1. A pharmacy benefit manager that contracts with a
423 pharmacy or pharmacist to provide pharmacist's services in this
424 state shall file the contract forms with the office 30 days
425 before the execution of the contract.

426 2.a. The contract forms are approved unless the office
427 disapproves the contract forms within 30 days after filing with
428 the office.

429 b. Disapproval shall be in writing, stating the reasons
430 for the disapproval, and a copy shall be delivered to the
431 pharmacy benefit manager.

432 c. The office shall develop formal criteria for the
433 approval and disapproval of pharmacy benefit manager contract
434 forms.

435 (g)1. A pharmacy benefit manager that initiates an audit
436 of a pharmacy or pharmacist under the contract shall limit the
437 audit to methods and procedures that are recognized as fair and
438 equitable for both the pharmacy benefit manager and the pharmacy
439 or pharmacist, or both.

440 2. Extrapolation calculations in an audit are prohibited.

441 3. A pharmacy benefit manager may not recoup any moneys
442 due from an audit by setoff from future remittances until the
443 results of the audit are finalized.

444 (h) Before terminating a pharmacy or pharmacist from a
445 pharmacy benefit manager's provider network, the pharmacy
446 benefit manager shall give the pharmacy or pharmacist a written
447 explanation of the reason for the termination 30 days before the
448 actual termination unless the termination is taken in reaction
449 to:

450 1. Loss of license;



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451 2. Loss of professional liability insurance; or

452 3. Conviction of fraud or misrepresentation.

453 (i)1. No pharmacy or pharmacist may be held responsible
454 for the acts or omissions of a pharmacy benefit manager.

455 2. No pharmacy benefit manager may be held responsible for
456 the acts or omissions of a pharmacy or pharmacist.

457 (11) ENFORCEMENT.--

458 (a)1. Enforcement of this section shall be the
459 responsibility of the board and the office.

460 2. The board or the office, or both, shall take action or
461 impose appropriate penalties to bring a noncomplying pharmacy
462 benefit manager into full compliance with this section or shall
463 terminate the pharmacy benefit manager's certificate of
464 authority or license.

465 (b)1. The board and the office shall each adopt procedures
466 for formal investigation of complaints concerning the failure of
467 a pharmacy benefit manager to comply with this section.

468 2.a. The office may refer a complaint received under this
469 section to the board if the complaint involves a professional or
470 patient health or safety issue.

471 b. The board may refer a complaint received under this
472 section to the office if the complaint involves a business or
473 financial issue.

474 3.a. If the board or the office has reason to believe that
475 there may have been a violation of this section, the board or
476 office shall issue and serve upon the pharmacy benefit manager a
477 statement of the charges and a notice of a hearing.

478 b. The hearing shall be held at a time and place fixed in
479 the notice, and not be less than 30 days after the notice is
480 served.



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481 c. At the hearing, the pharmacy benefit manager shall have
482 an opportunity to be heard and to show cause why the board or
483 the office should not:

484 (I) Issue a cease and desist order against the pharmacy
485 benefit manager; or

486 (II) Take any other necessary or appropriate action,
487 including, but not limited to, termination of the pharmacy
488 benefit manager's certificate of authority or license.

489 (c)1. The board may conduct an investigation concerning
490 the quality of services of any pharmacy benefit manager,
491 pharmacy, or pharmacist with whom the pharmacy benefit manager
492 has contracts, as the board deems necessary for the protection
493 of the interests of the residents of this state.

494 2. In addition to applying penalties and remedies under
495 this section for a pharmacy benefit manager's violation of this
496 section, the board may also apply penalties and remedies under
497 any provision of state law for violation thereof.

498 (12) MEDICATION REIMBURSEMENT COSTS.--

499 (a) Pharmacy benefit managers shall use a current
500 nationally recognized benchmark to base reimbursements for
501 medications and products dispensed by pharmacies or pharmacists
502 with whom the pharmacy benefit manager contracts as follows:

503 1. For brand single-source drugs and brand multi-source
504 drugs, either the Average Wholesale Price as listed in First
505 Data Bank (Hearst Publications) or Facts & Comparisons (formerly
506 Medispan) shall be used as an index.

507 2. For generic multi-source drugs, maximum allowable costs
508 shall be established by referencing the Baseline Price as listed
509 in either First Data Bank or Facts & Comparisons.

510 a. Only products that are in compliance with pharmacy laws



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511 as equivalent and generically interchangeable with a United
512 States Food and Drug Administration Orange Book rating of A-B
513 may be reimbursed from a maximum allowable cost price
514 methodology.

515 b. If a generic multi-source drug product has no baseline
516 price, then it shall be treated as a brand single-source drug
517 for the purpose of valuing reimbursement.

518 (b) If the publications specified in paragraph (a) cease
519 to be nationally recognized benchmarks used to base
520 reimbursement for medications and products dispensed by
521 pharmacies and pharmacists, other current nationally recognized
522 benchmarks, as are then current and in effect, may be utilized
523 so long as the benchmark is established and published by a
524 person, business, or other entity with which no pharmacy benefit
525 manager has a financial or business interest or connection.

526 (13) PROHIBITED PRACTICES.--

527 (a) Neither a pharmacy benefit manager nor a
528 representative of a pharmacy benefit manager may cause or
529 knowingly permit the use of any advertisement, promotion,
530 solicitation, proposal, or offer that is untrue, deceptive, or
531 misleading.

532 (b) A pharmacy benefit manager may not discriminate on the
533 basis of race, creed, color, sex, or religion in the selection
534 of pharmacies or pharmacists with which the pharmacy benefit
535 manager contracts.

536 (c) A pharmacy benefit manager may not unreasonably
537 discriminate against or between pharmacies or pharmacists.

538 (d) A pharmacy benefit manager shall be entitled to access
539 a pharmacy's or pharmacist's usual and customary price only for
540 comparison to specific claims for payment made by the pharmacy



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541 or pharmacist to the pharmacy benefit manager, and any other use
542 or disclosure by the pharmacy benefit manager is prohibited.

543 (e) A pharmacy benefit manager may not, directly or
544 indirectly, overtly or covertly, in cash or in kind, receive or
545 accept any rebate, kickback, or any special payment, favor, or
546 advantage of any valuable consideration or inducement for
547 influencing or switching a patient's drug product unless the
548 rebate, kickback, payment, favor, valuable consideration, or
549 inducement is specified in a written contract that has been
550 filed with the office.

551 (f)1. Claims for pharmacist's services paid by a pharmacy
552 benefit manager may not be retroactively denied or adjusted
553 after adjudication of the claims, unless:

554 a. The original claim was submitted fraudulently;

555 b. The original claim payment was incorrect because the
556 pharmacy or pharmacist had already been paid for the
557 pharmacist's services; or

558 c. The pharmacist's services were not, in fact, rendered
559 by the pharmacy or pharmacist.

560 2. An acknowledgement of eligibility may not be
561 retroactively reversed.

562 (g) A pharmacy benefit manager may not terminate a
563 contract with a pharmacy or pharmacist, or terminate, suspend,
564 or otherwise limit the participation of a pharmacy or pharmacist
565 in a pharmacy benefit manager's provider network, because:

566 1. The pharmacy or pharmacist expresses disagreement with
567 the pharmacy benefit manager's decision to deny or limit
568 benefits to a patient;

569 2. The pharmacist discusses with a patient any aspect of
570 the patient's medical condition or treatment alternatives;



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571 3. The pharmacist makes personal recommendations regarding
572 selecting a pharmacy benefit manager based on the pharmacist's
573 personal knowledge of the health needs of the patient;

574 4. The pharmacy or pharmacist protests or expresses
575 disagreement with a decision, policy, or practice of the
576 pharmacy benefit manager;

577 5. The pharmacy or pharmacist has in good faith
578 communicated with or advocated on behalf of any patient related
579 to the needs of the patient regarding the method by which the
580 pharmacy or pharmacist is compensated for services provided
581 under the contract with the pharmacy benefit manager;

582 6. The pharmacy or pharmacist complains to the board or
583 office that the pharmacy benefit manager has failed to comply
584 with this section; or

585 7. The pharmacy or pharmacist asserts rights under the
586 contract with the pharmacy benefit manager.

587 (h) Termination of a contract between a pharmacy benefit
588 manager and a pharmacy or pharmacist, or termination of a
589 pharmacy or pharmacist from a pharmacy benefit manager's
590 provider network, shall not release the pharmacy benefit manager
591 from the obligation to make any payment due to the pharmacy or
592 pharmacist for pharmacist's services rendered.

593 (i) A pharmacy benefit manager may not intervene in the
594 delivery or transmission of prescriptions from the prescriber to
595 the pharmacist or pharmacy for the purpose of:

596 1. Influencing the prescriber's choice of therapy;

597 2. Influencing the patient's choice of pharmacist or
598 pharmacy; or

599 3. Altering the prescription information, including, but
600 not limited to, switching the prescribed drug without the



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601 express written authorization of the prescriber.

602 (j) A pharmacy benefit manager may not engage in or
 603 interfere with the practice of medicine or intervene in the
 604 practice of medicine between prescribers and their patients.

605 (k) A pharmacy benefit manager may not engage in any
 606 activity that violates any requirement of Florida law.

607 (14) NO IMPAIRMENT OF EXISTING CONTRACTS.--To avoid
 608 impairment of existing contracts, this section shall apply only
 609 to contracts entered into or renewed after the effective date of
 610 this section.

611 (15) SUPPLEMENTAL NATURE.--This section is supplemental to
 612 all other laws and supersedes only those laws or parts of laws
 613 in direct conflict with it.

614 Section 2. This act shall take effect upon becoming a law.

615