

By Senator Montford

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1                   A bill to be entitled  
2       An act relating to prescription drug pricing  
3       transparency; amending s. 465.0244, F.S.; requiring a  
4       pharmacist to inform a customer of a lower cost  
5       alternative to a prescription and of whether the  
6       customer's cost-sharing obligation exceeds the retail  
7       price of the prescription; creating s. 624.49, F.S.;  
8       defining the term "pharmacy benefit manager";  
9       requiring a pharmacy benefit manager to register with  
10      the Office of Insurance Regulation; providing  
11      requirements and terms of registration, including the  
12      payment of a registration fee; requiring the office to  
13      issue certificates of registration and to set an  
14      initial registration fee and a renewal fee; requiring  
15      the office to adopt rules; creating ss. 627.64741 and  
16      641.314, F.S.; defining the terms "maximum allowable  
17      cost" and "pharmacy benefit manager"; requiring that  
18      certain terms be included in a contract between a  
19      health insurer or a health maintenance organization  
20      and a pharmacy benefit manager, respectively;  
21      providing applicability; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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

27       465.0244 Information disclosure.—

28       (1) Every pharmacy shall make available on its website a  
29 hyperlink to the health information that is disseminated by the

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30 Agency for Health Care Administration pursuant to s. 408.05(3)  
31 and shall place in the area where customers receive filled  
32 prescriptions a notice that such information is available  
33 electronically and the address of its ~~Internet~~ website.

34 (2) In addition to the requirements of s. 465.025, a  
35 pharmacist must inform a customer of a lower cost alternative  
36 for his or her prescription and of whether the customer's cost-  
37 sharing obligation exceeds the retail price of the prescription  
38 in the absence of prescription drug coverage.

39 Section 2. Section 624.49, Florida Statutes, is created to  
40 read:

41 624.49 Registration of pharmacy benefit managers.—

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

46 (2) To conduct business in this state, a pharmacy benefit  
47 manager must register with the Office of Insurance Regulation.  
48 To register, a pharmacy benefit manager must submit a fee  
49 determined by the office, a copy of the registrant's corporate  
50 charter, articles of incorporation, or other charter document,  
51 and a form established by the office containing the identity,  
52 address, and either the social security number or taxpayer  
53 identification number of all of the following persons:

54 (a) The registrant;

55 (b) The chief executive officer or a similarly titled  
56 person responsible for the executive oversight of the  
57 registrant;

58 (c) The chief financial officer or a similarly titled

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59 person responsible for the financial oversight of the  
60 registrant; and

61 (d) Each controlling interest of the registrant. For the  
62 purpose of this section, "controlling interest" means a person  
63 or entity that serves as an officer of, is on the board of  
64 directors of, or has a 10 percent or greater ownership interest  
65 in the registrant.

66 (3) The registrant shall report a change in any controlling  
67 interest of the registrant to the office in writing within 30  
68 days after the change.

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

74 (5) (a) The term of registration shall be 2 years from the  
75 date of issuance.

76 (b) The office shall set an initial registration fee and a  
77 renewal fee, which are nonrefundable. Total fees may not exceed  
78 the cost of administering this section.

79 (6) The office shall adopt rules necessary to administer  
80 this section.

81 Section 3. 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 that  
86 a pharmacy benefit manager may reimburse a pharmacist for a  
87 prescription drug, excluding dispensing fees, before the

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88 application of copayments, coinsurance, or any other cost-  
89 sharing charges.

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 include requirements that the pharmacy  
96 benefit manager:

97 (a) Update maximum allowable cost information at least  
98 every 7 calendar days; and

99 (b) Maintain a process that will, in a timely manner,  
100 eliminate drugs from maximum allowable cost lists or modify drug  
101 prices to remain consistent with changes in pricing data used in  
102 formulating maximum allowable costs and product 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 pharmacy's or pharmacist's ability to substitute a  
106 less expensive, generically equivalent drug product for a brand  
107 name drug, pursuant to s. 465.025, or to disclose to a  
108 subscriber whether the subscriber's cost-sharing obligation  
109 exceeds the retail price for a covered prescription drug, and  
110 the availability of a more affordable alternative drug, pursuant  
111 to s. 465.0244.

112 (4) A contract between a health insurer and a pharmacy  
113 benefit manager must prohibit the pharmacy benefit manager from  
114 requiring a subscriber to pay for a prescription drug at the  
115 point of sale in an amount greater than the lesser of:

116 (a) The applicable cost-sharing amount;

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117 (b) The allowable claim amount for the prescription drug;  
118 and

119 (c) The retail price of the drug in the absence of  
120 prescription drug coverage or programs that otherwise reduce the  
121 cost of a drug to the patient.

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

124 Section 4. Section 641.314, Florida Statutes, is created to  
125 read:

126 641.314 Pharmacy benefit manager contracts.—

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

128 (a) "Maximum allowable cost" means the per-unit amount that  
129 a pharmacy benefit manager reimburses a pharmacist for a  
130 prescription drug, excluding dispensing fees, before the  
131 application of copayments, coinsurance, or any other cost-  
132 sharing charges.

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

137 (2) A contract between a health maintenance organization  
138 and a pharmacy benefit manager must include requirements that  
139 the pharmacy benefit manager:

140 (a) Update maximum allowable cost information at least  
141 every 7 calendar days; and

142 (b) Maintain a process that will, in a timely manner,  
143 eliminate drugs from maximum allowable cost lists or modify drug  
144 prices to remain consistent with changes in pricing data used in  
145 formulating maximum allowable costs and product availability.

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146       (3) A contract between a health maintenance organization  
147 and a pharmacy benefit manager must prohibit the pharmacy  
148 benefit manager from limiting a pharmacy's or pharmacist's  
149 ability to substitute a less expensive, generically equivalent  
150 drug product for a brand name drug, pursuant to s. 465.025, or  
151 to disclose to a subscriber whether the subscriber's cost-  
152 sharing obligation exceeds the retail price for a covered  
153 prescription drug, and the availability of a more affordable  
154 alternative drug, pursuant to s. 465.0244.

155       (4) A contract between a health maintenance organization  
156 and a pharmacy benefit manager must prohibit the pharmacy  
157 benefit manager from requiring a subscriber to pay for a  
158 prescription drug at the point of sale in an amount greater than  
159 the lesser of:

160           (a) The applicable cost-sharing amount;

161           (b) The allowable claim amount for the prescription drug;

162 and

163           (c) The retail price of the drug in the absence of  
164 prescription drug coverage or programs that otherwise reduce the  
165 cost of a drug to the patient.

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

168       Section 5. This act shall take effect July 1, 2018.