By Senator Harrell

25-01859B-20 20201444__

1 A bill to be entitled
2 An act relating to prescription drug benefits;
3 providing a short title; amending s. 465.003, F.S.;
4 providing the definitions of the terms “pharmacy
5 benefit manager” and “pharmacy benefit management
6 services”; creating s. 465.203, F.S.; providing
7 definitions; providing that pharmacy benefit managers
8 have a fiduciary duty and obligation to specified
9 individuals and entities; providing requirements for
10 service performance, contracts, and specified funds
11 for pharmacy benefit managers; authorizing specified
12 pharmacies and pharmacists to contract with pharmacy
13 benefit managers; providing requirements for maximum
14 allowable cost lists; requiring pharmacy benefit
15 managers to respond to certain appeals within a
16 specified timeframe; prohibiting pharmacy benefit
17 managers from engaging in certain practices; requiring
18 pharmacy benefit managers to allow payors access to
19 specified records, data, and information; providing
20 disclosure and reporting requirements; requiring
21 certain income and financial benefits to be passed
22 through to payors; requiring pharmacy benefit managers
23 to allow the Department of Financial Services access
24 to specified records, data, and information; requiring
25 the department to investigate certain violations;
26 providing penalties; providing that specified
27 violations are subject to the Florida Deceptive and
28 Unfair Trade Practices Act; providing applicability;
29 amending s. 624.490, F.S.; conforming provisions to

30 changes made by the act; creating s. 627.42385, F.S.;
31 providing definitions; requiring group health plans,
32 health insurers, and certain pharmacy benefit managers
33 to base plan beneficiaries’ and insureds’ coinsurance
34 obligations for certain prescription drugs on
35 specified drug prices; providing applicability;
36 prohibiting such group health plans, health insurers,
37 and pharmacy benefit managers from revealing specified
38 information; requiring such entities to protect such
39 information and impose the confidentiality protections
40 on other entities; providing penalties; requiring the
41 department to investigate certain violations;
42 providing construction; amending ss. 627.64741,
43 627.6572, and 641.314, F.S.; conforming provisions to
44 changes made by the act; providing circumstances under
45 which contracts between health insurers or health
46 maintenance organizations and pharmacy benefit
47 managers are void and against the public policy;
48 providing requirements for contracts; requiring the
49 department to investigate certain violations;
50 providing penalties; amending ss. 409.9201, 458.331,
51 459.015, 465.014, 465.015, 465.0156, 465.016,
52 465.0197, 465.022, 465.023, 465.1901, 499.003, and
53 893.02, F.S.; conforming cross-references; providing
54 severability; providing an effective date.
55
56 Be It Enacted by the Legislature of the State of Florida:
57
58 Section 1. This act may be cited as the “Prescription Drug

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59 Cost Reduction Act."
60 Section 2. Section 465.003, Florida Statutes, is amended to
61 read:
62 465.003 Definitions.—As used in this chapter, the term:
63 (1) "Administration" means the obtaining and giving of a
64 single dose of medicinal drugs by a legally authorized person to
65 a patient for her or his consumption.
66 (3) ~~(2)~~ "Board" means the Board of Pharmacy.
67 (9) ~~(3)~~ "Consultant pharmacist" means a pharmacist licensed
68 by the department and certified as a consultant pharmacist
69 pursuant to s. 465.0125.
70 (10) ~~(4)~~ "Data communication device" means an electronic
71 device that receives electronic information from one source and
72 transmits or routes it to another, including, but not limited
73 to, any such bridge, router, switch, or gateway.
74 (11) ~~(5)~~ "Department" means the Department of Health.
75 (12) ~~(6)~~ "Dispense" means the transfer of possession of one
76 or more doses of a medicinal drug by a pharmacist to the
77 ultimate consumer or her or his agent. As an element of
78 dispensing, the pharmacist shall, prior to the actual physical
79 transfer, interpret and assess the prescription order for
80 potential adverse reactions, interactions, and dosage regimen
81 she or he deems appropriate in the exercise of her or his
82 professional judgment, and the pharmacist shall certify that the
83 medicinal drug called for by the prescription is ready for
84 transfer. The pharmacist shall also provide counseling on proper
85 drug usage, either orally or in writing, if in the exercise of
86 her or his professional judgment counseling is necessary. The
87 actual sales transaction and delivery of such drug shall not be

88 considered dispensing. The administration shall not be
89 considered dispensing.
90 (13)~~(7)~~ “Institutional formulary system” means a method
91 whereby the medical staff evaluates, appraises, and selects
92 those medicinal drugs or proprietary preparations which in the
93 medical staff’s clinical judgment are most useful in patient
94 care, and which are available for dispensing by a practicing
95 pharmacist in a Class II or Class III institutional pharmacy.
96 (14)~~(8)~~ “Medicinal drugs” or “drugs” means those substances
97 or preparations commonly known as “prescription” or “legend”
98 drugs which are required by federal or state law to be dispensed
99 only on a prescription, but shall not include patents or
100 proprietary preparations as hereafter defined.
101 (17)~~(9)~~ “Patent or proprietary preparation” means a
102 medicine in its unbroken, original package which is sold to the
103 public by, or under the authority of, the manufacturer or
104 primary distributor thereof and which is not misbranded under
105 the provisions of the Florida Drug and Cosmetic Act.
106 (18)~~(10)~~ “Pharmacist” means any person licensed pursuant to
107 this chapter to practice the profession of pharmacy.
108 (19)~~(11)~~(a) “Pharmacy” includes a community pharmacy, an
109 institutional pharmacy, a nuclear pharmacy, a special pharmacy,
110 and an Internet pharmacy.
111 1. The term “community pharmacy” includes every location
112 where medicinal drugs are compounded, dispensed, stored, or sold
113 or where prescriptions are filled or dispensed on an outpatient
114 basis.
115 2. The term “institutional pharmacy” includes every
116 location in a hospital, clinic, nursing home, dispensary,

117 sanitarium, extended care facility, or other facility,
118 hereinafter referred to as “health care institutions,” where
119 medicinal drugs are compounded, dispensed, stored, or sold.
120 3. The term “nuclear pharmacy” includes every location
121 where radioactive drugs and chemicals within the classification
122 of medicinal drugs are compounded, dispensed, stored, or sold.
123 The term “nuclear pharmacy” does not include hospitals licensed
124 under chapter 395 or the nuclear medicine facilities of such
125 hospitals.
126 4. The term “special pharmacy” includes every location
127 where medicinal drugs are compounded, dispensed, stored, or sold
128 if such locations are not otherwise defined in this subsection.
129 5. The term “Internet pharmacy” includes locations not
130 otherwise licensed or issued a permit under this chapter, within
131 or outside this state, which use the Internet to communicate
132 with or obtain information from consumers in this state and use
133 such communication or information to fill or refill
134 prescriptions or to dispense, distribute, or otherwise engage in
135 the practice of pharmacy in this state. Any act described in
136 this definition constitutes the practice of pharmacy as defined
137 in subsection <u>(23)</u> ~~(13)~~.
138 (b) The pharmacy department of any permittee shall be
139 considered closed whenever a Florida licensed pharmacist is not
140 present and on duty. The term “not present and on duty” shall
141 not be construed to prevent a pharmacist from exiting the
142 prescription department for the purposes of consulting or
143 responding to inquiries or providing assistance to patients or
144 customers, attending to personal hygiene needs, or performing
145 any other function for which the pharmacist is responsible,

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146 provided that such activities are conducted in a manner
147 consistent with the pharmacist’s responsibility to provide
148 pharmacy services.
149 (20) “Pharmacy benefit manager” means an entity that
150 performs pharmacy benefit management services for a health plan,
151 a health plan sponsor, a health plan provider, a health insurer,
152 or any other payor. The term does not include a provider as
153 defined in s. 641.19, a physician as defined in s. 458.305, or
154 an osteopathic physician as defined in s. 459.003.
155 (21) “Pharmacy benefit management services” means services
156 that:
157 (a) Are provided, directly or through another entity, to a
158 health plan, a health plan sponsor, a health plan provider, a
159 health insurer, or any other payor, regardless of whether the
160 services provider and the health plan, health plan sponsor,
161 health plan provider, health insurer, or other payor are related
162 or associated by ownership, common ownership, organization, or
163 otherwise.
164 (b) Include the procurement of prescription drugs to be
165 dispensed to patients and the administration or management of
166 prescription drug benefits, including, but not limited to, any
167 of the following:
168 1. Mail service pharmacy or specialty pharmacy.
169 2. Claims processing, retail network management, or payment
170 of claims to pharmacies for dispensing drugs.
171 3. Clinical or other formulary or preferred-drug-list
172 development or management.
173 4. Negotiation, administration, or receipt of rebates,
174 discounts, payment differentials, or other incentives, to

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175 include particular drugs in a particular category or to promote
176 the purchase of particular drugs.
177 5. Patients’ compliance, therapeutic intervention, or
178 generic substitution programs.
179 6. Disease management.
180 7. Drug use review, step-therapy protocol, or prior
181 authorization.
182 8. Adjudication of appeals or grievances related to
183 prescription drug coverage.
184 9. Contracts with network pharmacies.
185 10. Control of the cost of covered prescription drugs.
186 (22) ~~(12)~~ “Pharmacy intern” means a person who is currently
187 registered in, and attending, a duly accredited college or
188 school of pharmacy, or who is a graduate of such a school or
189 college of pharmacy, and who is duly and properly registered
190 with the department as provided for under its rules.
191 (23) ~~(13)~~ “Practice of the profession of pharmacy” includes
192 compounding, dispensing, and consulting concerning contents,
193 therapeutic values, and uses of any medicinal drug; consulting
194 concerning therapeutic values and interactions of patent or
195 proprietary preparations, whether pursuant to prescriptions or
196 in the absence and entirely independent of such prescriptions or
197 orders; and conducting other pharmaceutical services. For
198 purposes of this subsection, “other pharmaceutical services”
199 means the monitoring of the patient’s drug therapy and assisting
200 the patient in the management of his or her drug therapy, and
201 includes review of the patient’s drug therapy and communication
202 with the patient’s prescribing health care provider as licensed
203 under chapter 458, chapter 459, chapter 461, or chapter 466, or

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204 similar statutory provision in another jurisdiction, or such
205 provider's agent or such other persons as specifically
206 authorized by the patient, regarding the drug therapy. However,
207 nothing in this subsection may be interpreted to permit an
208 alteration of a prescriber's directions, the diagnosis or
209 treatment of any disease, the initiation of any drug therapy,
210 the practice of medicine, or the practice of osteopathic
211 medicine, unless otherwise permitted by law. "Practice of the
212 profession of pharmacy" also includes any other act, service,
213 operation, research, or transaction incidental to, or forming a
214 part of, any of the foregoing acts, requiring, involving, or
215 employing the science or art of any branch of the pharmaceutical
216 profession, study, or training, and shall expressly permit a
217 pharmacist to transmit information from persons authorized to
218 prescribe medicinal drugs to their patients. The practice of the
219 profession of pharmacy also includes the administration of
220 vaccines to adults pursuant to s. 465.189 and the preparation of
221 prepackaged drug products in facilities holding Class III
222 institutional pharmacy permits.
223 (24)~~(14)~~ "Prescription" includes any order for drugs or
224 medicinal supplies written or transmitted by any means of
225 communication by a duly licensed practitioner authorized by the
226 laws of the state to prescribe such drugs or medicinal supplies
227 and intended to be dispensed by a pharmacist. The term also
228 includes an orally transmitted order by the lawfully designated
229 agent of such practitioner. The term also includes an order
230 written or transmitted by a practitioner licensed to practice in
231 a jurisdiction other than this state, but only if the pharmacist
232 called upon to dispense such order determines, in the exercise

233 of her or his professional judgment, that the order is valid and
234 necessary for the treatment of a chronic or recurrent illness.
235 The term “prescription” also includes a pharmacist’s order for a
236 product selected from the formulary created pursuant to s.
237 465.186. Prescriptions may be retained in written form or the
238 pharmacist may cause them to be recorded in a data processing
239 system, provided that such order can be produced in printed form
240 upon lawful request.

241 (15) “Nuclear pharmacist” means a pharmacist licensed by
242 the department and certified as a nuclear pharmacist pursuant to
243 s. 465.0126.

244 (5)~~(16)~~ “Centralized prescription filling” means the
245 filling of a prescription by one pharmacy upon request by
246 another pharmacy to fill or refill the prescription. The term
247 includes the performance by one pharmacy for another pharmacy of
248 other pharmacy duties such as drug utilization review,
249 therapeutic drug utilization review, claims adjudication, and
250 the obtaining of refill authorizations.

251 (2)~~(17)~~ “Automated pharmacy system” means a mechanical
252 system that delivers prescription drugs received from a Florida
253 licensed pharmacy and maintains related transaction information.

254 (8)~~(18)~~ “Compounding” means combining, mixing, or altering
255 the ingredients of one or more drugs or products to create
256 another drug or product.

257 (16)~~(19)~~ “Outsourcing facility” means a single physical
258 location registered as an outsourcing facility under the federal
259 Drug Quality and Security Act, Pub. L. No. 113-54, at which
260 sterile compounding of a drug or product is conducted.

261 (7)~~(20)~~ “Compounded sterile product” means a drug that is

262 intended for parenteral administration, an ophthalmic or oral
263 inhalation drug in aqueous format, or a drug or product that is
264 required to be sterile under federal or state law or rule, which
265 is produced through compounding, but is not approved by the
266 United States Food and Drug Administration.
267 (4) ~~(21)~~ "Central distribution facility" means a facility
268 under common control with a hospital holding a Class III
269 institutional pharmacy permit that may dispense, distribute,
270 compound, or fill prescriptions for medicinal drugs; prepare
271 prepackaged drug products; and conduct other pharmaceutical
272 services.
273 (6) ~~(22)~~ "Common control" means the power to direct or cause
274 the direction of the management and policies of a person or an
275 organization, whether by ownership of stock, voting rights,
276 contract, or otherwise.
277 Section 3. Section 465.203, Florida Statutes, is created to
278 read:
279 465.203 Pharmacy benefit managers.—
280 (1) As used in this section, the term:
281 (a) "Affiliate" means a pharmacy:
282 1. In which a pharmacy benefit manager, directly or
283 indirectly, has an investment, financial interest, or ownership
284 interest; or
285 2. The ownership of which is shared, directly or
286 indirectly, with a pharmacy benefit manager.
287 (b) "Covered individual" means a member, participant,
288 enrollee, contract holder, policyholder, or beneficiary of a
289 payor.
290 (c) "Make a referral" means any of the following:

291 1. To order, direct, or influence, orally or in writing, a
292 covered individual to use an affiliate, including by sending
293 messages to the covered individual through electronic mail, a
294 cellular telephone, or a facsimile machine, or by making
295 telephone calls.
296 2. To offer or implement plan designs that require a
297 covered individual to use an affiliate.
298 3. To target a covered individual or a prospective patient
299 with advertisement, marketing, or promotion of an affiliate,
300 including by placing a specific pharmacy name on an insurance
301 card or health plan card supplied to the covered individual.
302 (d) "Maximum allowable cost" means the per-unit amount that
303 a pharmacy benefit manager reimburses a pharmacy or pharmacist
304 for a generic drug, brand name drug, specialty drug, biological
305 product, or other prescription drug, excluding dispensing fees,
306 before the application of copayments, coinsurance, and other
307 cost-sharing charges, if any.
308 (e) "Maximum allowable cost list" means a listing of
309 generic drugs, brand name drugs, specialty drugs, biological
310 products, or other prescription drugs or other methodology used
311 directly or indirectly by a pharmacy benefit manager to set the
312 maximum allowable costs for the drugs.
313 (f) "Payor" means a health plan, a health plan sponsor, a
314 health plan provider, a health insurer, or any other payor that
315 uses pharmacy benefit management services in this state.
316 (g) "Spread pricing" means the practice by a pharmacy
317 benefit manager of charging or claiming from a payor an amount
318 that is more than the amount the pharmacy benefit manager paid
319 to the pharmacy or pharmacist who filled the prescription or who

320 provided the pharmacy services.
321 (2)(a) A pharmacy benefit manager has a fiduciary duty and
322 obligation to the covered individuals and the payor. A pharmacy
323 benefit manager shall perform pharmacy benefit management
324 services with care, skill, prudence, diligence, and
325 professionalism and for the best interests of the covered
326 individuals and the payor.
327 (b) Any provision in a contract between a pharmacy benefit
328 manager and a payor which limits or prohibits the fiduciary duty
329 or obligation of a pharmacy benefit manager to the covered
330 individuals and the payor is void and against the public policy
331 of the state.
332 (c) All funds received by a pharmacy benefit manager in
333 relation to providing pharmacy benefit management services shall
334 be received by the pharmacy benefit manager in trust for the
335 payor. A pharmacy benefit manager shall use or distribute such
336 funds only for the benefit of the covered individuals or the
337 payor.
338 (3) A pharmacy or pharmacist licensed or registered under
339 this chapter which has a pharmacy permit and is in good standing
340 with the Board of Pharmacy may contract directly or indirectly
341 with a pharmacy benefit manager within 30 days after filing an
342 application with the pharmacy benefit manager, without a
343 probation period, an exclusion period, or minimum inventory
344 requirements.
345 (4)(a) A maximum allowable cost list must include:
346 1. Average acquisition cost, including national average
347 drug acquisition cost.
348 2. Average manufacturer price.

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349 3. Average wholesale price.
350 4. Brand effective rate or generic effective rate.
351 5. Discount indexing.
352 6. Federal upper limits.
353 7. Wholesale acquisition cost.
354 8. Any other item that a pharmacy benefit manager or a
355 payor may use to establish reimbursement rates to a pharmacist
356 or pharmacy for filling prescriptions or providing other
357 pharmacy services.
358 (b) A pharmacy benefit manager must respond within 7 days
359 after receipt of an appeal to a maximum allowable cost by a
360 pharmacy, a pharmacist, or a pharmacy services administrative
361 organization on behalf of a pharmacy or pharmacist. The pharmacy
362 benefit manager's failure to respond within 7 days shall be
363 deemed approval of the appeal.
364 (5) A pharmacy benefit manager may not do any of the
365 following:
366 (a) Conduct or participate in spread pricing in this state.
367 (b) Charge a pharmacy or pharmacist a fee related to the
368 adjudication of a claim, including, without limitation, a fee
369 for:
370 1. The submission of a claim;
371 2. The enrollment or participation in a retail pharmacy
372 network; or
373 3. The development or management of claims processing
374 services or claims payment services related to participation in
375 a retail pharmacy network.
376 (c) Deny a pharmacy or pharmacist the opportunity to
377 participate in a pharmacy network at the preferred participation

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378 status even though the pharmacy or pharmacist is willing to
379 accept, as a condition of the preferred participation status,
380 the terms and conditions that the pharmacy benefit manager has
381 established for other pharmacies that are in a pharmacy network
382 at the preferred participation status and that are not owned in
383 whole or in part by the pharmacy benefit manager.
384 (d) Impose registration or permit requirements for a
385 pharmacy or accreditation standards or recertification
386 requirements for a pharmacist which are inconsistent with, more
387 stringent than, or in addition to federal and state requirements
388 for licensure as a pharmacy or pharmacist in this state.
389 (e) Pay or reimburse a pharmacy or pharmacist an amount for
390 a drug, product, or pharmacy service in the state which is:
391 1. Less than the amount the pharmacy benefit manager
392 reimburses a pharmacy benefit manager affiliate for providing
393 the same drug, product, or pharmacy service in this state;
394 2. Less than the actual cost incurred by the pharmacy or
395 pharmacist for providing the drug, product, or pharmacy service
396 in this state; or
397 3. Different from the combined maximum allowable cost and
398 dispensing fees for a drug. The dispensing fees must be a least
399 equal to the fees for service set by the Agency for Health Care
400 Administration.
401 (f) Retroactively deny, hold back, or reduce reimbursement
402 for a covered service claim after paying a claim, unless the
403 original claim was submitted fraudulently.
404 (g) Prohibit a pharmacy or pharmacist from providing
405 information regarding drug pricing, contract terms, or drug
406 reimbursement rates to a member of the Legislature.

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407 (h) Drop a pharmacy or pharmacist from a pharmacy network
408 or plan or otherwise engage in any action to retaliate against a
409 pharmacy or pharmacist for providing information regarding drug
410 pricing, contract terms, or drug reimbursement rates to a member
411 of the Legislature.
412 (i) Engage in the practice of the profession of pharmacy.
413 (j) Engage in the practice of medicine as defined in s.
414 458.305 or the practice of osteopathic medicine as defined in s.
415 459.003.
416 (k) Make a referral.
417 (l) Publish or otherwise reveal information regarding the
418 actual amount of rebates, discounts, payment differentials,
419 concessions, reductions, or any other incentives that the
420 pharmacy benefit plan receives on a product-, manufacturer-, or
421 pharmacy-specific basis. The pharmacy benefit manager shall
422 protect such information as a trade secret and shall impose the
423 confidentiality protections on any vendor or third-party entity
424 performing services on behalf of the pharmacy benefit manager
425 that has access to rebate, discount, payment differential,
426 concession, reduction, or any other incentive information.
427 (6) A payor shall have access to all financial and
428 utilization records, data, and information used by the pharmacy
429 benefit manager in relation to the pharmacy benefit management
430 services provided to the payor.
431 (7) A pharmacy benefit manager shall:
432 (a) Disclose in writing to the payor any activity, policy,
433 practice, contract, or arrangement of the pharmacy benefit
434 manager which directly or indirectly presents conflicts of
435 interest with the pharmacy benefit manager’s relationship with,

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436 or fiduciary duty or obligation to, the covered individuals and
437 the payor.
438 (b) Report quarterly to the payor any income resulting from
439 pricing discounts, rebates of any kind, inflationary payments,
440 credits, clawbacks, fees, grants, chargebacks, reimbursements,
441 or other financial benefits received by the pharmacy benefit
442 manager from any person or entity. The pharmacy benefit manager
443 shall ensure that such income and financial benefits are passed
444 through in full, at least quarterly, to the payor to reduce the
445 cost of prescription drugs and pharmacy services to covered
446 individuals.
447 (8) The Department of Financial Services shall have access
448 to all financial and utilization records, data, and information
449 used by pharmacy benefit managers in relation to pharmacy
450 benefit management services provided to payors in this state.
451 The department shall investigate any alleged violation of this
452 section.
453 (9)(a) A pharmacy benefit manager that violates this
454 section is liable for a civil fine of $10,000 for each violation
455 and may have its registration revoked by the Department of
456 Financial Services.
457 (b) A violation of this section which is committed or
458 performed with such frequency as to indicate a general business
459 practice is subject to the Florida Deceptive and Unfair Trade
460 Practices Act under part II of chapter 501.
461 (10) This section applies to contracts entered into or
462 renewed on or after January 1, 2021.
463 Section 4. Subsection (1) of section 624.490, Florida
464 Statutes, is amended to read:

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465 624.490 Registration of pharmacy benefit managers.—
466 (1) As used in this section, the term “pharmacy benefit
467 manager” means an ~~a person or~~ entity that performs pharmacy
468 benefit management services for a health plan, a health plan
469 sponsor, a health plan provider, a health insurer, or any other
470 payor that uses pharmacy benefit management services ~~doing~~
471 ~~business in this state which contracts to administer~~
472 ~~prescription drug benefits on behalf of a health insurer or a~~
473 ~~health maintenance organization to residents of this state~~. The
474 term does not include a provider as defined in s. 641.19, a
475 physician as defined in s. 458.305, or an osteopathic physician
476 as defined in s. 459.003. As used in this subsection, the term
477 “pharmacy benefit management services” means services that:
478 (a) Are provided, directly or through another entity, to a
479 health plan, a health plan sponsor, a health plan provider, a
480 health insurer, or any other payor, regardless of whether the
481 services provider and the health plan, health plan sponsor,
482 health plan provider, health insurer, or other payor are related
483 or associated by ownership, common ownership, organization, or
484 otherwise.
485 (b) Include the procurement of prescription drugs to be
486 dispensed to patients and the administration or management of
487 prescription drug benefits, including, but not limited to, any
488 of the following:
489 1. Mail service pharmacy or specialty pharmacy.
490 2. Claims processing, retail network management, or payment
491 of claims to pharmacies for dispensing drugs.
492 3. Clinical or other formulary or preferred-drug-list
493 development or management.

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494 4. Negotiation, administration, or receipt of rebates,
495 discounts, payment differentials, or other incentives, to
496 include particular drugs in a particular category or to promote
497 the purchase of particular drugs.
498 5. Patients' compliance, therapeutic intervention, or
499 generic substitution programs.
500 6. Disease management.
501 7. Drug use review, step-therapy protocol, or prior
502 authorization.
503 8. Adjudication of appeals or grievances related to
504 prescription drug coverage.
505 9. Contracts with network pharmacies.
506 10. Control of the cost of covered prescription drugs.
507 Section 5. Section 627.42385, Florida Statutes, is created
508 to read:
509 627.42385 Coinsurance obligations for prescription drugs.—
510 (1) As used in this section, the term:
511 (a) "Coinsurance" means, with respect to prescription drug
512 coverage under a group health plan or health insurance coverage,
513 a payment obligation of a plan beneficiary or an insured that is
514 based on a percentage of the specified cost of a prescription
515 drug, which may be up to 100 percent of that cost.
516 (b) "Deductible" means the payment obligation of a group
517 health plan beneficiary or a health insurance coverage insured
518 before the plan or coverage will pay any portion of the cost of
519 prescription drug coverage.
520 (c) "Health insurer" has the same meaning as provided in s.
521 627.42392.
522 (d) "List price" means the manufacturer's price for a drug

523 for wholesalers or direct purchasers in this country, not
524 including any rebate, discount, payment differential,
525 concession, or reduction in price, for the most recent month for
526 which the information is available, as reported in wholesale
527 price guides or other publications of drug or biological pricing
528 data.
529 (e) "Net price" means the price of a drug paid by a group
530 health plan or a health insurer, or a pharmacy benefit manager
531 performing pharmacy benefit management services for a group
532 health plan or a health insurer, after all rebates, discounts,
533 payment differentials, concessions, and reductions in price have
534 been applied to the list price.
535 (f) "Pharmacy benefit manager" has the same meaning as
536 provided in s. 465.003.
537 (g) "Pharmacy benefit management services" has the same
538 meaning as provided in s. 465.003.
539 (h) "Prescription drug" has the same meaning as provided in
540 s. 409.9201.
541 (2) Unless otherwise expressly provided in this section, a
542 group health plan or a health insurer offering group or
543 individual health insurance coverage, or a pharmacy benefit
544 manager performing pharmacy benefit management services for a
545 group health plan or a health insurer, shall base a plan
546 beneficiary's or an insured's coinsurance obligation for a
547 prescription drug covered by the plan or coverage on the net
548 price, and not the list price, of the drug.
549 (3)(a) Subsection (2) applies to a prescription drug
550 benefit if a plan beneficiary or an insured is required to pay a
551 deductible with respect to such benefit and if the plan

552 beneficiary or insured:
553 1. Has not yet satisfied the deductible under the plan or
554 coverage; or
555 2. Has another coinsurance obligation with respect to such
556 benefit under the plan or coverage.
557 (b) Subsection (2) does not apply if, with respect to the
558 dispensed quantity of a prescription drug, the net price and
559 list price of the drug are different by not more than 1 percent.
560 (4) In complying with this section, a group health plan or
561 a health insurer, or a pharmacy benefit manager performing
562 pharmacy benefit management services for a group health plan or
563 a health insurer, may not publish or otherwise reveal
564 information regarding the actual amount of rebates, discounts,
565 payment differentials, concessions, or reductions in price that
566 the plan, health insurer, or pharmacy benefit plan receives on a
567 product-, manufacturer-, or pharmacy-specific basis. The plan,
568 health insurer, or pharmacy benefit manager shall protect such
569 information as a trade secret and shall impose the
570 confidentiality protections on any vendor or third party
571 performing health care or pharmacy administrative services on
572 behalf of the plan, health insurer, or pharmacy benefit manager
573 that have access to rebate, discount, payment differential,
574 concession, or reduction information.
575 (5) A group health plan, health insurer, or pharmacy
576 benefit manager that violates any provision of this section is
577 liable for a civil fine of $10,000 for each violation and may be
578 required to discontinue the issuance or renewal of the plan or
579 health insurance coverage or the provision of pharmacy benefit
580 management services, as applicable.

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581 (6) The department shall investigate any alleged violation
582 of this section.
583 (7) This section does not prevent a group health plan,
584 health insurer, or pharmacy benefit manager from requiring a
585 copayment for any prescription drug if such copayment is not
586 tied to a percentage of the cost of the drug.
587 Section 6. Section 627.64741, Florida Statutes, is amended
588 to read:
589 627.64741 Pharmacy benefit manager contracts.—
590 (1) As used in this section, the term:
591 (a) "Maximum allowable cost" means the per-unit amount that
592 a pharmacy benefit manager reimburses a pharmacy or pharmacist
593 for a generic drug, brand name drug, specialty drug, biological
594 product, or other prescription drug, excluding dispensing fees,
595 before prior to the application of copayments, coinsurance, and
596 other cost-sharing charges, if any.
597 (b) "Maximum allowable cost list" means a listing of
598 generic drugs, brand name drugs, specialty drugs, biological
599 products, or other prescription drugs or other methodology used
600 directly or indirectly by a pharmacy benefit manager to set the
601 maximum allowable costs for the drugs.
602 (c) "Payor" means a health plan, a health plan sponsor, a
603 health plan provider, or any other payor that uses pharmacy
604 benefit management services in this state.
605 (d) (b) "Pharmacy benefit manager" means an a person or
606 entity that performs pharmacy benefit management services for
607 doing business in this state which contracts to administer or
608 manage prescription drug benefits on behalf of a health insurer
609 or payor to residents of this state. The term does not include a

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610 provider as defined in s. 641.19, a physician as defined in s.
611 458.305, or an osteopathic physician as defined in s. 459.003.
612 (e) “Pharmacy benefit management services” means services
613 that:
614 1. Are provided, directly or through another entity, to a
615 health insurer or payor, regardless of whether the services
616 provider and the health insurer or payor are related or
617 associated by ownership, common ownership, organization, or
618 otherwise.
619 2. Include the procurement of prescription drugs to be
620 dispensed to patients and the administration or management of
621 prescription drug benefits, including, but not limited to, any
622 of the following:
623 a. Mail service pharmacy or specialty pharmacy.
624 b. Claims processing, retail network management, or payment
625 of claims to pharmacies for dispensing drugs.
626 c. Clinical or other formulary or preferred-drug-list
627 development or management.
628 d. Negotiation, administration, or receipt of rebates,
629 discounts, payment differentials, or other incentives, to
630 include particular drugs in a particular category or to promote
631 the purchase of particular drugs.
632 e. Patients’ compliance, therapeutic intervention, or
633 generic substitution programs.
634 f. Disease management.
635 g. Drug use review, step-therapy protocol, or prior
636 authorization.
637 h. Adjudication of appeals or grievances related to
638 prescription drug coverage.

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639 i. Contracts with network pharmacies.
640 j. Control of the cost of covered prescription drugs.
641 (2) A contract between a health insurer or payor and a
642 pharmacy benefit manager must require that the pharmacy benefit
643 manager:
644 (a) Update maximum allowable cost pricing information at
645 least every 7 calendar days.
646 (b) Maintain a process that will, in a timely manner,
647 eliminate drugs from maximum allowable cost lists or modify drug
648 prices to remain consistent with changes in pricing data used in
649 formulating maximum allowable cost prices and product
650 availability.
651 (3) A contract between a health insurer or payor and a
652 pharmacy benefit manager must prohibit the pharmacy benefit
653 manager from limiting a pharmacy's or pharmacist's ability to
654 disclose whether the cost-sharing obligation exceeds the retail
655 price for a covered prescription drug, and the availability of a
656 more affordable alternative drug, pursuant to s. 465.0244.
657 (4) A contract between a health insurer or payor and a
658 pharmacy benefit manager must prohibit the pharmacy benefit
659 manager from requiring an insured to make a payment for a
660 prescription drug at the point of sale in an amount that exceeds
661 the lesser of:
662 (a) The applicable cost-sharing amount; or
663 (b) The retail price of the drug in the absence of
664 prescription drug coverage.
665 (5)(a) A pharmacy benefit manager has a fiduciary duty and
666 obligation to the insureds and to the health insurer that uses
667 pharmacy benefit management services or the payor. The pharmacy

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668 benefit manager must meet all the requirements of s. 465.203 and
669 must perform pharmacy benefit management services with care,
670 skill, prudence, diligence, and professionalism and for the best
671 interests of the insureds and the health insurer or payor.
672 (b) A provision in a contract between a health insurer or
673 payor and a pharmacy benefit manager is void and against the
674 public policy of the state if the policy:
675 1. Limits or prohibits the fiduciary duty or obligation of
676 the pharmacy benefit manager to the insureds and the health
677 insurer or payor; or
678 2. Violates any provision of s. 465.203.
679 (c) All funds received by a pharmacy benefit manager in
680 relation to providing pharmacy benefit management services shall
681 be received by the pharmacy benefit manager in trust for the
682 health insurer or payor and shall be used or distributed only
683 for the benefit of the insureds or the health insurer or payor.
684 (6) A contract between a health insurer or payor and a
685 pharmacy benefit manager must require the maximum allowable cost
686 list to include:
687 (a) Average acquisition cost, including national average
688 drug acquisition cost.
689 (b) Average manufacturer price.
690 (c) Average wholesale price.
691 (d) Brand effective rate or generic effective rate.
692 (e) Discount indexing.
693 (f) Federal upper limits.
694 (g) Wholesale acquisition cost.
695 (h) Any other item that a pharmacy benefit manager or a
696 health insurer or payor may use to establish reimbursement rates

697 to a pharmacist or pharmacy for filling prescriptions or
698 providing other pharmacy services.
699 (7) A health insurer that uses pharmacy benefit management
700 services or a payor shall have access to all financial and
701 utilization records, data, and information used by the pharmacy
702 benefit manager in relation to the pharmacy benefit management
703 services provided to the health insurer or payor.
704 (8) A pharmacy benefit manager shall:
705 (a) Disclose in writing to the health insurer that uses
706 pharmacy benefit management services or payor any activity,
707 policy, practice, contract, or arrangement of the pharmacy
708 benefit manager which directly or indirectly presents conflicts
709 of interest with the pharmacy benefit manager's relationship
710 with, or fiduciary duty or obligation to, the insureds and the
711 health insurer or payor.
712 (b) Report quarterly to the health insurer or payor any
713 income resulting from pricing discounts, rebates of any kind,
714 inflationary payments, credits, clawbacks, fees, grants,
715 chargebacks, reimbursements, or other financial benefits
716 received by the pharmacy benefit manager from any person or
717 entity. The pharmacy benefit manager shall ensure that such
718 income and financial benefits are passed through in full, at
719 least quarterly, to the health insurer or payor to reduce the
720 cost of prescription drugs and pharmacy services to the
721 insureds.
722 (9) The department shall investigate any alleged violation
723 of this section.
724 (10)(a) A pharmacy benefit manager that violates any
725 provision of this section is liable for a civil fine of $10,000

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726 for each violation and may have its registration revoked by the
727 department.
728 (b) A violation by a pharmacy benefit manager of any
729 provision of this section which is committed or performed with
730 such frequency as to indicate a general business practice is
731 subject to the Florida Deceptive and Unfair Trade Practices Act
732 under part II of chapter 501.
733 (11)~~(5)~~ This section applies to contracts entered into or
734 renewed on or after January 1, 2021 ~~July 1, 2018~~.
735 Section 7. Section 627.6572, Florida Statutes, is amended
736 to read:
737 627.6572 Pharmacy benefit manager contracts.—
738 (1) As used in this section, the term:
739 (a) "Maximum allowable cost" means the per-unit amount that
740 a pharmacy benefit manager reimburses a pharmacy or pharmacist
741 for a generic drug, brand name drug, specialty drug, biological
742 product, or other prescription drug, excluding dispensing fees,
743 before ~~prior to~~ the application of copayments, coinsurance, and
744 other cost-sharing charges, if any.
745 (b) "Maximum allowable cost list" means a listing of
746 generic drugs, brand name drugs, specialty drugs, biological
747 products, or other prescription drugs or other methodology used
748 directly or indirectly by a pharmacy benefit manager to set the
749 maximum allowable costs for the drugs.
750 (c) "Payor" means a health plan, a health plan sponsor, a
751 health plan provider, or any other payor that uses pharmacy
752 benefit management services in this state.
753 (d)~~(b)~~ "Pharmacy benefit manager" means an ~~a person or~~
754 entity that performs pharmacy benefit management services for

755 ~~doing business in this state which contracts to administer or~~
756 ~~manage prescription drug benefits on behalf of~~ a health insurer
757 or payor ~~to residents of this state~~. The term does not include a
758 provider as defined in s. 641.19, a physician as defined in s.
759 458.305, or an osteopathic physician as defined in s. 459.003.
760 (e) "Pharmacy benefit management services" means services
761 that:
762 1. Are provided, directly or through another entity, to a
763 health insurer or payor, regardless of whether the services
764 provider and the health insurer or payor are related or
765 associated by ownership, common ownership, organization, or
766 otherwise.
767 2. Include the procurement of prescription drugs to be
768 dispensed to patients and the administration or management of
769 prescription drug benefits, including, but not limited to, any
770 of the following:
771 a. Mail service pharmacy or specialty pharmacy.
772 b. Claims processing, retail network management, or payment
773 of claims to pharmacies for dispensing drugs.
774 c. Clinical or other formulary or preferred-drug-list
775 development or management.
776 d. Negotiation, administration, or receipt of rebates,
777 discounts, payment differentials, or other incentives, to
778 include particular drugs in a particular category or to promote
779 the purchase of particular drugs.
780 e. Patients' compliance, therapeutic intervention, or
781 generic substitution programs.
782 f. Disease management.
783 g. Drug use review, step-therapy protocol, or prior

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784 authorization.

785 h. Adjudication of appeals or grievances related to
786 prescription drug coverage.

787 i. Contracts with network pharmacies.

788 j. Control of the cost of covered prescription drugs.

789 (2) A contract between a health insurer or payor and a
790 pharmacy benefit manager must require that the pharmacy benefit
791 manager:

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

794 (b) Maintain a process that will, in a timely manner,
795 eliminate drugs from maximum allowable cost lists or modify drug
796 prices to remain consistent with changes in pricing data used in
797 formulating maximum allowable cost prices and product
798 availability.

799 (3) A contract between a health insurer or payor and a
800 pharmacy benefit manager must prohibit the pharmacy benefit
801 manager from limiting a pharmacy's or pharmacist's ability to
802 disclose whether the cost-sharing obligation exceeds the retail
803 price for a covered prescription drug, and the availability of a
804 more affordable alternative drug, pursuant to s. 465.0244.

805 (4) A contract between a health insurer or payor and a
806 pharmacy benefit manager must prohibit the pharmacy benefit
807 manager from requiring an insured to make a payment for a
808 prescription drug at the point of sale in an amount that exceeds
809 the lesser of:

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

811 (b) The retail price of the drug in the absence of
812 prescription drug coverage.

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813 (5)(a) A pharmacy benefit manager has a fiduciary duty and
814 obligation to the insureds and to the health insurer that uses
815 pharmacy benefit management services or the payor. The pharmacy
816 benefit manager must meet all the requirements of s. 465.203 and
817 must perform pharmacy benefit management services with care,
818 skill, prudence, diligence, and professionalism and for the best
819 interests of the insureds and the health insurer or payor.
820 (b) A provision in a contract between a health insurer or
821 payor and a pharmacy benefit manager is void and against the
822 public policy of the state if the policy:
823 1. Limits or prohibits the fiduciary duty or obligation of
824 the pharmacy benefit manager to the insureds and the health
825 insurer or payor; or
826 2. Violates any provision of s. 465.203.
827 (c) All funds received by a pharmacy benefit manager in
828 relation to providing pharmacy benefit management services shall
829 be received by the pharmacy benefit manager in trust for the
830 health insurer or payor and shall be used or distributed only
831 for the benefit of the insureds or the health insurer or payor.
832 (6) A contract between a health insurer or payor and a
833 pharmacy benefit manager must require the maximum allowable cost
834 list to include:
835 (a) Average acquisition cost, including national average
836 drug acquisition cost.
837 (b) Average manufacturer price.
838 (c) Average wholesale price.
839 (d) Brand effective rate or generic effective rate.
840 (e) Discount indexing.
841 (f) Federal upper limits.

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842 (g) Wholesale acquisition cost.
843 (h) Any other item that a pharmacy benefit manager or a
844 health insurer or payor may use to establish reimbursement rates
845 to a pharmacist or pharmacy for filling prescriptions or
846 providing other pharmacy services.
847 (7) A health insurer that uses pharmacy benefit management
848 services or a payor shall have access to all financial and
849 utilization records, data, and information used by the pharmacy
850 benefit manager in relation to the pharmacy benefit management
851 services provided to the health insurer or payor.
852 (8) A pharmacy benefit manager shall:
853 (a) Disclose in writing to the health insurer that uses
854 pharmacy benefit management services or the payor any activity,
855 policy, practice, contract, or arrangement of the pharmacy
856 benefit manager which directly or indirectly presents conflicts
857 of interest with the pharmacy benefit manager's relationship
858 with, or fiduciary duty or obligation to, the insureds and the
859 health insurer or payor.
860 (b) Report quarterly to the health insurer or payor any
861 income resulting from pricing discounts, rebates of any kind,
862 inflationary payments, credits, clawbacks, fees, grants,
863 chargebacks, reimbursements, or other financial benefits
864 received by the pharmacy benefit manager from any person or
865 entity. The pharmacy benefit manager shall ensure that such
866 income and financial benefits are passed through in full, at
867 least quarterly, to the health insurer or payor to reduce the
868 cost of prescription drugs and pharmacy services to the
869 insureds.
870 (9) The department shall investigate any alleged violation

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871 of this section.
872 (10)(a) A pharmacy benefit manager that violates any
873 provision of this section is liable for a civil fine of $10,000
874 for each violation and may have its registration revoked by the
875 department.
876 (b) A violation by a pharmacy benefit manager of any
877 provision of this section which is committed or performed with
878 such frequency as to indicate a general business practice is
879 subject to the Florida Deceptive and Unfair Trade Practices Act
880 under part II of chapter 501.
881 (11)(5) This section applies to contracts entered into or
882 renewed on or after January 1, 2021 July 1, 2018.
883 Section 8. Section 641.314, Florida Statutes, is amended to
884 read:
885 641.314 Pharmacy benefit manager contracts.—
886 (1) As used in this section, the term:
887 (a) "Maximum allowable cost" means the per-unit amount that
888 a pharmacy benefit manager reimburses a pharmacy or pharmacist
889 for a generic drug, brand name drug, specialty drug, biological
890 product, or other prescription drug, excluding dispensing fees,
891 before prior to the application of copayments, coinsurance, and
892 other cost-sharing charges, if any.
893 (b) "Maximum allowable cost list" means a listing of
894 generic drugs, brand name drugs, specialty drugs, biological
895 products, or other prescription drugs or other methodology used
896 directly or indirectly by a pharmacy benefit manager to set the
897 maximum allowable costs for the drugs.
898 (c) "Payor" means a health plan, a health plan sponsor, a
899 health plan provider, or any other payor that uses pharmacy

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900 benefit management services in this state.
901 (d) (b) "Pharmacy benefit manager" means an a person or
902 entity that performs pharmacy benefit management services for
903 doing business in this state which contracts to administer or
904 manage prescription drug benefits on behalf of a health
905 maintenance organization or payor to residents of this state.
906 The term does not include a provider as defined in s. 641.19, a
907 physician as defined in s. 458.305, or an osteopathic physician
908 as defined in s. 459.003.
909 (e) "Pharmacy benefit management services" means services
910 that:
911 1. Are provided, directly or through another entity, to a
912 health maintenance organization or payor, regardless of whether
913 the services provider and the health maintenance organization or
914 payor are related or associated by ownership, common ownership,
915 organization, or otherwise.
916 2. Include the procurement of prescription drugs to be
917 dispensed to patients and the administration or management of
918 prescription drug benefits, including, but not limited to, any
919 of the following:
920 a. Mail service pharmacy or specialty pharmacy.
921 b. Claims processing, retail network management, or payment
922 of claims to pharmacies for dispensing drugs.
923 c. Clinical or other formulary or preferred-drug-list
924 development or management.
925 d. Negotiation, administration, or receipt of rebates,
926 discounts, payment differentials, or other incentives, to
927 include particular drugs in a particular category or to promote
928 the purchase of particular drugs.

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929 e. Patients’ compliance, therapeutic intervention, or
930 generic substitution programs.
931 f. Disease management.
932 g. Drug use review, step-therapy protocol, or prior
933 authorization.
934 h. Adjudication of appeals or grievances related to
935 prescription drug coverage.
936 i. Contracts with network pharmacies.
937 j. Control of the cost of covered prescription drugs.
938 (2) A contract between a health maintenance organization or
939 payor and a pharmacy benefit manager must require that the
940 pharmacy benefit manager:
941 (a) Update maximum allowable cost pricing information at
942 least every 7 calendar days.
943 (b) Maintain a process that will, in a timely manner,
944 eliminate drugs from maximum allowable cost lists or modify drug
945 prices to remain consistent with changes in pricing data used in
946 formulating maximum allowable cost prices and product
947 availability.
948 (3) A contract between a health maintenance organization or
949 payor and a pharmacy benefit manager must prohibit the pharmacy
950 benefit manager from limiting a pharmacy’s or pharmacist’s
951 ability to disclose whether the cost-sharing obligation exceeds
952 the retail price for a covered prescription drug, and the
953 availability of a more affordable alternative drug, pursuant to
954 s. 465.0244.
955 (4) A contract between a health maintenance organization or
956 payor and a pharmacy benefit manager must prohibit the pharmacy
957 benefit manager from requiring a subscriber to make a payment

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958 for a prescription drug at the point of sale in an amount that
959 exceeds the lesser of:
960 (a) The applicable cost-sharing amount; or
961 (b) The retail price of the drug in the absence of
962 prescription drug coverage.
963 (5)(a) A pharmacy benefit manager has a fiduciary duty and
964 obligation to the subscribers and to the health maintenance
965 organization that uses pharmacy benefit management services or a
966 payor. The pharmacy benefit manager must meet all the
967 requirements of s. 465.203 and must perform pharmacy benefit
968 management services with care, skill, prudence, diligence, and
969 professionalism and for the best interests of the subscribers
970 and the health maintenance organization or payor.
971 (b) A provision in a contract between a health maintenance
972 organization or payor and a pharmacy benefit manager is void and
973 against the public policy of this state if the policy:
974 1. Limits or prohibits the fiduciary duty or obligation of
975 the pharmacy benefit manager to the insureds and the health
976 maintenance organization or payor; or
977 2. Violates any provision of s. 465.203.
978 (c) All funds received by a pharmacy benefit manager in
979 relation to providing pharmacy benefit management services shall
980 be received by the pharmacy benefit manager in trust for the
981 health maintenance organization or payor and shall be used or
982 distributed only for the benefit of the insureds or the health
983 maintenance organization or payor.
984 (6) A contract between a health maintenance organization or
985 payor and a pharmacy benefit manager must require the maximum
986 allowable cost list to include:

987 (a) Average acquisition cost, including national average
988 drug acquisition cost.
989 (b) Average manufacturer price.
990 (c) Average wholesale price.
991 (d) Brand effective rate or generic effective rate.
992 (e) Discount indexing.
993 (f) Federal upper limits.
994 (g) Wholesale acquisition cost.
995 (h) Any other item that a pharmacy benefit manager or a
996 health maintenance organization or payor may use to establish
997 reimbursement rates to a pharmacist or pharmacy for filling
998 prescriptions or providing other pharmacy services.
999 (7) A health maintenance organization that uses pharmacy
1000 benefit management services or a payor shall have access to all
1001 financial and utilization records, data, and information used by
1002 the pharmacy benefit manager in relation to the pharmacy benefit
1003 management services provided to the health maintenance
1004 organization or payor.
1005 (8) A pharmacy benefit manager shall:
1006 (a) Disclose in writing to the maintenance organization
1007 that uses pharmacy benefit management services or the payor any
1008 activity, policy, practice, contract, or arrangement of the
1009 pharmacy benefit manager which directly or indirectly presents
1010 conflicts of interest with the pharmacy benefit manager’s
1011 relationship with, or fiduciary duty or obligation to, the
1012 subscribers and the health maintenance organization or payor.
1013 (b) Report quarterly to the health maintenance organization
1014 or payor any income resulting from pricing discounts, rebates of
1015 any kind, inflationary payments, credits, clawbacks, fees,

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1016 grants, chargebacks, reimbursements, or other financial benefits
1017 received by the pharmacy benefit manager from any person or
1018 entity. The pharmacy benefit manager shall ensure that such
1019 income and financial benefits are passed through in full, at
1020 least quarterly, to the health maintenance organization or payor
1021 to reduce the cost of prescription drugs and pharmacy services
1022 to the subscribers.
1023 (9) The department shall investigate any alleged violation
1024 of this section.
1025 (10)(a) A pharmacy benefit manager that violates any
1026 provision of this section is liable for a civil fine of $10,000
1027 for each violation and may have its registration revoked by the
1028 department.
1029 (b) A violation of any provision of this section which is
1030 committed or performed with such frequency as to indicate a
1031 general business practice is subject to the Florida Deceptive
1032 and Unfair Trade Practices Act under part II of chapter 501.
1033 (11) ~~(5)~~ This section applies to contracts entered into or
1034 renewed on or after January 1, 2021 ~~July 1, 2018~~.
1035 Section 9. Paragraph (a) of subsection (1) of section
1036 409.9201, Florida Statutes, is amended to read:
1037 409.9201 Medicaid fraud.—
1038 (1) As used in this section, the term:
1039 (a) “Prescription drug” means any drug, including, but not
1040 limited to, finished dosage forms or active ingredients that are
1041 subject to, defined in, or described in s. 503(b) of the Federal
1042 Food, Drug, and Cosmetic Act or in s. 465.003(14) ~~465.003(8)~~, s.
1043 499.003(17), s. 499.007(13), or s. 499.82(10).
1044

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1045 The value of individual items of the legend drugs or goods or
1046 services involved in distinct transactions committed during a
1047 single scheme or course of conduct, whether involving a single
1048 person or several persons, may be aggregated when determining
1049 the punishment for the offense.
1050 Section 10. Paragraph (pp) of subsection (1) of section
1051 458.331, Florida Statutes, is amended to read:
1052 458.331 Grounds for disciplinary action; action by the
1053 board and department.—
1054 (1) The following acts constitute grounds for denial of a
1055 license or disciplinary action, as specified in s. 456.072(2):
1056 (pp) Applicable to a licensee who serves as the designated
1057 physician of a pain-management clinic as defined in s. 458.3265
1058 or s. 459.0137:
1059 1. Registering a pain-management clinic through
1060 misrepresentation or fraud;
1061 2. Procuring, or attempting to procure, the registration of
1062 a pain-management clinic for any other person by making or
1063 causing to be made, any false representation;
1064 3. Failing to comply with any requirement of chapter 499,
1065 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the
1066 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,
1067 the Drug Abuse Prevention and Control Act; or chapter 893, the
1068 Florida Comprehensive Drug Abuse Prevention and Control Act;
1069 4. Being convicted or found guilty of, regardless of
1070 adjudication to, a felony or any other crime involving moral
1071 turpitude, fraud, dishonesty, or deceit in any jurisdiction of
1072 the courts of this state, of any other state, or of the United
1073 States;

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1074 5. Being convicted of, or disciplined by a regulatory
1075 agency of the Federal Government or a regulatory agency of
1076 another state for, any offense that would constitute a violation
1077 of this chapter;
1078 6. Being convicted of, or entering a plea of guilty or nolo
1079 contendere to, regardless of adjudication, a crime in any
1080 jurisdiction of the courts of this state, of any other state, or
1081 of the United States which relates to the practice of, or the
1082 ability to practice, a licensed health care profession;
1083 7. Being convicted of, or entering a plea of guilty or nolo
1084 contendere to, regardless of adjudication, a crime in any
1085 jurisdiction of the courts of this state, of any other state, or
1086 of the United States which relates to health care fraud;
1087 8. Dispensing any medicinal drug based upon a communication
1088 that purports to be a prescription as defined in s. 465.003
1089 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or
1090 has reason to believe that the purported prescription is not
1091 based upon a valid practitioner-patient relationship; or
1092 9. Failing to timely notify the board of the date of his or
1093 her termination from a pain-management clinic as required by s.
1094 458.3265(3).
1095 Section 11. Paragraph (rr) of subsection (1) of section
1096 459.015, Florida Statutes, is amended to read:
1097 459.015 Grounds for disciplinary action; action by the
1098 board and department.—
1099 (1) The following acts constitute grounds for denial of a
1100 license or disciplinary action, as specified in s. 456.072(2):
1101 (rr) Applicable to a licensee who serves as the designated
1102 physician of a pain-management clinic as defined in s. 458.3265

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1103 or s. 459.0137:
1104 1. Registering a pain-management clinic through
1105 misrepresentation or fraud;
1106 2. Procuring, or attempting to procure, the registration of
1107 a pain-management clinic for any other person by making or
1108 causing to be made, any false representation;
1109 3. Failing to comply with any requirement of chapter 499,
1110 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the
1111 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,
1112 the Drug Abuse Prevention and Control Act; or chapter 893, the
1113 Florida Comprehensive Drug Abuse Prevention and Control Act;
1114 4. Being convicted or found guilty of, regardless of
1115 adjudication to, a felony or any other crime involving moral
1116 turpitude, fraud, dishonesty, or deceit in any jurisdiction of
1117 the courts of this state, of any other state, or of the United
1118 States;
1119 5. Being convicted of, or disciplined by a regulatory
1120 agency of the Federal Government or a regulatory agency of
1121 another state for, any offense that would constitute a violation
1122 of this chapter;
1123 6. Being convicted of, or entering a plea of guilty or nolo
1124 contendere to, regardless of adjudication, a crime in any
1125 jurisdiction of the courts of this state, of any other state, or
1126 of the United States which relates to the practice of, or the
1127 ability to practice, a licensed health care profession;
1128 7. Being convicted of, or entering a plea of guilty or nolo
1129 contendere to, regardless of adjudication, a crime in any
1130 jurisdiction of the courts of this state, of any other state, or
1131 of the United States which relates to health care fraud;

1132 8. Dispensing any medicinal drug based upon a communication
1133 that purports to be a prescription as defined in s. <u>465.003</u>
1134 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or
1135 has reason to believe that the purported prescription is not
1136 based upon a valid practitioner-patient relationship; or
1137 9. Failing to timely notify the board of the date of his or
1138 her termination from a pain-management clinic as required by s.
1139 459.0137(3).
1140 Section 12. Subsection (1) of section 465.014, Florida
1141 Statutes, is amended to read:
1142 465.014 Pharmacy technician.—
1143 (1) A person other than a licensed pharmacist or pharmacy
1144 intern may not engage in the practice of the profession of
1145 pharmacy, except that a licensed pharmacist may delegate to
1146 pharmacy technicians who are registered pursuant to this section
1147 those duties, tasks, and functions that do not fall within the
1148 purview of s. <u>465.003(23)</u> ~~465.003(13)~~. All such delegated acts
1149 must be performed under the direct supervision of a licensed
1150 pharmacist who is responsible for all such acts performed by
1151 persons under his or her supervision. A registered pharmacy
1152 technician, under the supervision of a pharmacist, may initiate
1153 or receive communications with a practitioner or his or her
1154 agent, on behalf of a patient, regarding refill authorization
1155 requests. A licensed pharmacist may not supervise more than one
1156 registered pharmacy technician unless otherwise permitted by the
1157 guidelines adopted by the board. The board shall establish
1158 guidelines to be followed by licensees or permittees in
1159 determining the circumstances under which a licensed pharmacist
1160 may supervise more than one pharmacy technician.

1161 Section 13. Paragraph (c) of subsection (2) of section
1162 465.015, Florida Statutes, is amended to read:
1163 465.015 Violations and penalties.—
1164 (2) It is unlawful for any person:
1165 (c) To sell or dispense drugs as defined in s. 465.003(14)
1166 ~~465.003(8)~~ without first being furnished with a prescription.
1167 Section 14. Subsection (9) of section 465.0156, Florida
1168 Statutes, is amended to read:
1169 465.0156 Registration of nonresident pharmacies.—
1170 (9) Notwithstanding s. 465.003(18) ~~465.003(10)~~, for
1171 purposes of this section, the registered pharmacy and the
1172 pharmacist designated by the registered pharmacy as the
1173 prescription department manager or the equivalent must be
1174 licensed in the state of location in order to dispense into this
1175 state.
1176 Section 15. Paragraph (s) of subsection (1) of section
1177 465.016, Florida Statutes, is amended to read:
1178 465.016 Disciplinary actions.—
1179 (1) The following acts constitute grounds for denial of a
1180 license or disciplinary action, as specified in s. 456.072(2):
1181 (s) Dispensing any medicinal drug based upon a
1182 communication that purports to be a prescription as defined in
1183 ~~by~~ s. 465.003 ~~465.003(14)~~ or s. 893.02 when the pharmacist knows
1184 or has reason to believe that the purported prescription is not
1185 based upon a valid practitioner-patient relationship.
1186 Section 16. Subsection (4) of section 465.0197, Florida
1187 Statutes, is amended to read:
1188 465.0197 Internet pharmacy permits.—
1189 (4) Notwithstanding s. 465.003(18) ~~465.003(10)~~, for

1190 purposes of this section, the Internet pharmacy and the
1191 pharmacist designated by the Internet pharmacy as the
1192 prescription department manager or the equivalent must be
1193 licensed in the state of location in order to dispense into this
1194 state.
1195 Section 17. Paragraph (j) of subsection (5) of section
1196 465.022, Florida Statutes, is amended to read:
1197 465.022 Pharmacies; general requirements; fees.—
1198 (5) The department or board shall deny an application for a
1199 pharmacy permit if the applicant or an affiliated person,
1200 partner, officer, director, or prescription department manager
1201 or consultant pharmacist of record of the applicant:
1202 (j) Has dispensed any medicinal drug based upon a
1203 communication that purports to be a prescription as defined in
1204 by s. 465.003 465.003(14) or s. 893.02 when the pharmacist knows
1205 or has reason to believe that the purported prescription is not
1206 based upon a valid practitioner-patient relationship that
1207 includes a documented patient evaluation, including history and
1208 a physical examination adequate to establish the diagnosis for
1209 which any drug is prescribed and any other requirement
1210 established by board rule under chapter 458, chapter 459,
1211 chapter 461, chapter 463, chapter 464, or chapter 466.
1212
1213 For felonies in which the defendant entered a plea of guilty or
1214 nolo contendere in an agreement with the court to enter a
1215 pretrial intervention or drug diversion program, the department
1216 shall deny the application if upon final resolution of the case
1217 the licensee has failed to successfully complete the program.
1218 Section 18. Paragraph (h) of subsection (1) of section

1219 465.023, Florida Statutes, is amended to read:
1220 465.023 Pharmacy permittee; disciplinary action.—
1221 (1) The department or the board may revoke or suspend the
1222 permit of any pharmacy permittee, and may fine, place on
1223 probation, or otherwise discipline any pharmacy permittee if the
1224 permittee, or any affiliated person, partner, officer, director,
1225 or agent of the permittee, including a person fingerprinted
1226 under s. 465.022(3), has:
1227 (h) Dispensed any medicinal drug based upon a communication
1228 that purports to be a prescription as defined in ~~by~~ s. 465.003
1229 ~~465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason
1230 to believe that the purported prescription is not based upon a
1231 valid practitioner-patient relationship that includes a
1232 documented patient evaluation, including history and a physical
1233 examination adequate to establish the diagnosis for which any
1234 drug is prescribed and any other requirement established by
1235 board rule under chapter 458, chapter 459, chapter 461, chapter
1236 463, chapter 464, or chapter 466.
1237 Section 19. Section 465.1901, Florida Statutes, is amended
1238 to read:
1239 465.1901 Practice of orthotics and pedorthics.—The
1240 provisions of chapter 468 relating to orthotics or pedorthics do
1241 not apply to any licensed pharmacist or to any person acting
1242 under the supervision of a licensed pharmacist. The practice of
1243 orthotics or pedorthics by a pharmacist or any of the
1244 pharmacist's employees acting under the supervision of a
1245 pharmacist shall be construed to be within the meaning of the
1246 term "practice of the profession of pharmacy" as defined ~~set~~
1247 ~~forth~~ in s. 465.003 ~~465.003(13)~~, and shall be subject to

1248 regulation in the same manner as any other pharmacy practice.
1249 The Board of Pharmacy shall develop rules regarding the practice
1250 of orthotics and pedorthics by a pharmacist. Any pharmacist or
1251 person under the supervision of a pharmacist engaged in the
1252 practice of orthotics or pedorthics is not precluded from
1253 continuing that practice pending adoption of these rules.
1254 Section 20. Subsection (40) of section 499.003, Florida
1255 Statutes, is amended to read:
1256 499.003 Definitions of terms used in this part.—As used in
1257 this part, the term:
1258 (40) "Prescription drug" means a prescription, medicinal,
1259 or legend drug, including, but not limited to, finished dosage
1260 forms or active pharmaceutical ingredients subject to, defined
1261 by, or described by s. 503(b) of the federal act or s.
1262 465.003(14) ~~465.003(8)~~, s. 499.007(13), subsection (31), or
1263 subsection (47), except that an active pharmaceutical ingredient
1264 is a prescription drug only if substantially all finished dosage
1265 forms in which it may be lawfully dispensed or administered in
1266 this state are also prescription drugs.
1267 Section 21. Paragraph (c) of subsection (24) of section
1268 893.02, Florida Statutes, is amended to read:
1269 893.02 Definitions.—The following words and phrases as used
1270 in this chapter shall have the following meanings, unless the
1271 context otherwise requires:
1272 (24) "Prescription" includes any order for drugs or
1273 medicinal supplies which is written or transmitted by any means
1274 of communication by a licensed practitioner authorized by the
1275 laws of this state to prescribe such drugs or medicinal
1276 supplies, is issued in good faith and in the course of

1277 professional practice, is intended to be dispensed by a person
1278 authorized by the laws of this state to do so, and meets the
1279 requirements of s. 893.04.
1280 (c) A prescription for a controlled substance may not be
1281 issued on the same prescription blank with another prescription
1282 for a controlled substance that is named or described in a
1283 different schedule or with another prescription for a medicinal
1284 drug, as defined in s. 465.003 ~~465.003(8)~~, that is not a
1285 controlled substance.
1286 Section 22. If any provision of this act or its application
1287 to any person or circumstance is held invalid, the invalidity
1288 does not affect other provisions or applications of the act
1289 which can be given effect without the invalid provision or
1290 application, and to this end the provisions of this act are
1291 severable.
1292 Section 23. This act shall take effect January 1, 2021.