

1                                   A bill to be entitled  
2           An act relating to prescription drug price  
3           transparency; amending s. 499.012, F.S.; providing  
4           that permits for prescription drug manufacturers and  
5           nonresident prescription drug manufacturers are  
6           subject to specified requirements; creating s.  
7           499.026, F.S.; providing definitions; requiring  
8           prescription drug manufacturers to provide notice of  
9           drug price increases to insurers; requiring  
10          prescription drug manufacturers to provide an annual  
11          report on drug price increases to the Department of  
12          Business and Professional Regulation and the Office of  
13          Insurance Regulation; providing report requirements;  
14          creating s. 624.491, F.S.; providing timelines and  
15          documentation requirements for pharmacy audits  
16          conducted by certain health insurers, health  
17          maintenance organizations, or their agents; amending  
18          s. 627.64741, F.S.; providing definitions; requiring  
19          reporting requirements in contracts between health  
20          insurers and pharmacy benefit managers; requiring  
21          health insurers to submit an annual report to the  
22          office; requiring the office to publish such reports  
23          and analyses of specified information; revising  
24          applicability; amending s. 627.6572, F.S.; providing  
25          definitions; requiring reporting requirements in

26 | contracts between health insurers and pharmacy benefit  
 27 | managers; requiring health insurers to submit an  
 28 | annual report to the office; requiring the office to  
 29 | publish such reports and analyses of specified  
 30 | information; revising applicability; amending s.  
 31 | 641.314, F.S.; providing definitions; requiring  
 32 | reporting requirements in contracts between health  
 33 | maintenance organizations and pharmacy benefit  
 34 | managers; requiring health maintenance organizations  
 35 | to submit an annual report to the office; requiring  
 36 | the office to publish such reports and analyses of  
 37 | specified information; revising applicability;  
 38 | providing an effective date.

39 |  
 40 | Be It Enacted by the Legislature of the State of Florida:

41 |  
 42 | Section 1. Subsection (16) is added to section 499.012,  
 43 | Florida Statutes, to read:

44 | 499.012 Permit application requirements.—

45 | (16) A permit for a prescription drug manufacturer or a  
 46 | nonresident prescription drug manufacturer is subject to the  
 47 | requirements of s. 499.026.

48 | Section 2. Section 499.026, Florida Statutes, is created  
 49 | to read:

50 | 499.026 Prescription drug price increases.—

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

52 (a) "Health insurer" means a health insurer issuing major  
53 medical coverage through an individual or group policy or a  
54 health maintenance organization issuing major medical coverage  
55 through an individual or group contract, regulated under chapter  
56 627 or chapter 641.

57 (b) "Manufacturer" means any person holding a prescription  
58 drug manufacturer permit or a nonresident prescription drug  
59 manufacturer permit under s. 499.01.

60 (2) At least 60 days before the effective date of any  
61 manufacturer drug price increase, a manufacturer must provide  
62 notification of the upcoming drug price increase and the amount  
63 of the drug price increase to every health insurer that covers  
64 the drug.

65 (3) By April 1 of each year, a manufacturer must submit a  
66 report to the department and the Office of Insurance Regulation  
67 on each manufacturer drug price increase made during the  
68 previous calendar year. At a minimum, the report shall include:

69 (a) A list of all drugs affected by the drug price  
70 increase and both the dollar amount of each drug price increase  
71 and the percentage increase of each drug price increase,  
72 relative to the previous price of the drug.

73 (b) A complete description of the factors contributing to  
74 the drug price increase.

75 Section 3. Section 624.491, Florida Statutes, is created

76 | to read:

77 |       624.491 Pharmacy audits.—A health insurer or health  
 78 | maintenance organization providing pharmacy benefits through a  
 79 | major medical individual or group health policy or health  
 80 | maintenance contract, respectively, shall comply with the  
 81 | requirements of this section when the insurer or health  
 82 | maintenance organization or any entity acting on behalf of the  
 83 | insurer or health maintenance organization, including, but not  
 84 | limited to, a pharmacy benefit manager, audits the records of a  
 85 | pharmacy licensed under chapter 465. The entity conducting such  
 86 | an audit shall:

87 |       (1) Notify the pharmacy at least 7 calendar days before  
 88 | the initial onsite audit for each audit cycle.

89 |       (2) Ensure the audit is not initiated during the first 3  
 90 | calendar days of a month unless the pharmacist consents  
 91 | otherwise.

92 |       (3) Limit the audit period to 24 months after the date a  
 93 | claim is submitted to or adjudicated by the entity.

94 |       (4) Provide a preliminary audit report to the pharmacy  
 95 | within 120 days after the conclusion of the audit.

96 |       (5) Provide a final audit report to the pharmacy within 6  
 97 | months after having providing the preliminary audit report.

98 |       Section 4. Section 627.64741, Florida Statutes, is amended  
 99 | to read:

100 |       627.64741 Pharmacy benefit manager contracts.—

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

102 (a) "Administrative fee" means a fee or payment under a  
103 contract between a health insurer and a pharmacy benefit manager  
104 associated with the pharmacy benefit manager's administration of  
105 the insurer's prescription drug benefit programs that is paid by  
106 the insurer to the pharmacy benefit manager.

107 (b)~~(a)~~ "Maximum allowable cost" means the per-unit amount  
108 that a pharmacy benefit manager reimburses a pharmacist for a  
109 prescription drug, excluding dispensing fees, prior to the  
110 application of copayments, coinsurance, and other cost-sharing  
111 charges, if any.

112 (c)~~(b)~~ "Pharmacy benefit manager" means a person or entity  
113 doing business in this state which contracts to administer or  
114 manage prescription drug benefits on behalf of a health insurer  
115 to residents of this state.

116 (d) "Rebate" means all discounts and other negotiated  
117 price concessions based on utilization of a prescription drug  
118 and paid by the pharmaceutical manufacturer or other entity,  
119 other than an insured, to the pharmacy benefit manager after the  
120 claim has been adjudicated at the pharmacy.

121 (e) "Spread pricing" means any amount a pharmacy benefit  
122 manager charges or receives from a health insurer for payment of  
123 a prescription drug or pharmacy service that is greater than the  
124 amount the pharmacy benefit manager paid to the pharmacist or  
125 pharmacy that filled the prescription or provided the pharmacy

126 service.

127 (2) A contract between a health insurer and a pharmacy  
128 benefit manager must require that the pharmacy benefit manager:

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

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

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

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

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

147 (b) The retail price of the drug in the absence of  
148 prescription drug coverage.

149 (5) A contract between a health insurer and a pharmacy  
150 benefit manager must require the pharmacy benefit manager to

151 report annually the following to the insurer:

152 (a) The aggregate amount of rebates the pharmacy benefit  
153 manager received in association with claims administered on  
154 behalf of the insurer and the aggregate amount of such rebates  
155 the pharmacy benefit manager received that were not passed  
156 through to the insurer.

157 (b) The aggregate amount of administrative fees paid to  
158 the pharmacy benefit manager by the insurer for the  
159 administration of the insurer's prescription drug benefit  
160 programs.

161 (c) The types and aggregate amounts of any fees or  
162 remittances paid to the pharmacy benefit manager by pharmacies.

163 (d) The aggregate amount of revenue generated by the  
164 pharmacy benefit manager through the use of spread pricing in  
165 association with the administration of the insurer's pharmacy  
166 benefit programs.

167 (6) Not later than June 30, 2021, and annually thereafter,  
168 a health insurer shall submit a report to the office that  
169 includes the information provided by its contracted pharmacy  
170 benefit managers under subsection (5). The office shall publish  
171 the reports and an analysis of the reported information on its  
172 website.

173 (7)~~(5)~~ This section applies to contracts entered into or  
174 renewed on or after July 1, 2020 ~~2018~~.

175 Section 5. Section 627.6572, Florida Statutes, is amended

176 to read:

177 627.6572 Pharmacy benefit manager contracts.—

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

179 (a) "Administrative fee" means a fee or payment under a  
180 contract between a health insurer and a pharmacy benefit manager  
181 associated with the pharmacy benefit manager's administration of  
182 the insurer's prescription drug benefit programs that is paid by  
183 the insurer to the pharmacy benefit manager.

184 (b)~~(a)~~ "Maximum allowable cost" means the per-unit amount  
185 that a pharmacy benefit manager reimburses a pharmacist for a  
186 prescription drug, excluding dispensing fees, prior to the  
187 application of copayments, coinsurance, and other cost-sharing  
188 charges, if any.

189 (c)~~(b)~~ "Pharmacy benefit manager" means a person or entity  
190 doing business in this state which contracts to administer or  
191 manage prescription drug benefits on behalf of a health insurer  
192 to residents of this state.

193 (d) "Rebate" means all discounts and other negotiated  
194 price concessions based on utilization of a prescription drug  
195 and paid by the pharmaceutical manufacturer or other entity,  
196 other than an insured, to the pharmacy benefit manager after the  
197 claim has been adjudicated at the pharmacy.

198 (e) "Spread pricing" means any amount a pharmacy benefit  
199 manager charges or receives from a health insurer for payment of  
200 a prescription drug or pharmacy service that is greater than the



201 amount the pharmacy benefit manager paid to the pharmacist or  
202 pharmacy that filled the prescription or provided the pharmacy  
203 service.

204 (2) A contract between a health insurer and a pharmacy  
205 benefit manager must require that the pharmacy benefit manager:

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

208 (b) Maintain a process that will, in a timely manner,  
209 eliminate drugs from maximum allowable cost lists or modify drug  
210 prices to remain consistent with changes in pricing data used in  
211 formulating maximum allowable cost prices and product  
212 availability.

213 (3) A contract between a health insurer and a pharmacy  
214 benefit manager must prohibit the pharmacy benefit manager from  
215 limiting a pharmacist's ability to disclose whether the cost-  
216 sharing obligation exceeds the retail price for a covered  
217 prescription drug, and the availability of a more affordable  
218 alternative drug, pursuant to s. 465.0244.

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

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

224 (b) The retail price of the drug in the absence of  
225 prescription drug coverage.

226        (5) A contract between a health insurer and a pharmacy  
 227 benefit manager must require the pharmacy benefit manager to  
 228 report annually the following to the insurer:

229        (a) The aggregate amount of rebates the pharmacy benefit  
 230 manager received in association with claims administered on  
 231 behalf of the insurer and the aggregate amount of such rebates  
 232 the pharmacy benefit manager received that were not passed  
 233 through to the insurer.

234        (b) The aggregate amount of administrative fees paid to  
 235 the pharmacy benefit manager by the insurer for the  
 236 administration of the insurer's prescription drug benefit  
 237 programs.

238        (c) The types and aggregate amounts of any fees or  
 239 remittances paid to the pharmacy benefit manager by pharmacies.

240        (d) The aggregate amount of revenue generated by the  
 241 pharmacy benefit manager through the use of spread pricing in  
 242 association with the administration of the insurer's pharmacy  
 243 benefit programs.

244        (6) Not later than June 30, 2021, and annually thereafter,  
 245 a health insurer shall submit a report to the office that  
 246 includes the information provided by its contracted pharmacy  
 247 benefit managers under subsection (5). The office shall publish  
 248 the reports and an analysis of the reported information on its  
 249 website.

250        (7)~~(5)~~ This section applies to contracts entered into or

251 renewed on or after July 1, 2020 ~~2018~~.

252 Section 6. Section 641.314, Florida Statutes, is amended  
253 to read:

254 641.314 Pharmacy benefit manager contracts.—

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

256 (a) "Administrative fee" means a fee or payment under a  
257 contract between a health maintenance organization and a  
258 pharmacy benefit manager associated with the pharmacy benefit  
259 manager's administration of the health maintenance  
260 organization's prescription drug benefit programs that is paid  
261 by the health maintenance organization to the pharmacy benefit  
262 manager.

263 (b) ~~(a)~~ "Maximum allowable cost" means the per-unit amount  
264 that a pharmacy benefit manager reimburses a pharmacist for a  
265 prescription drug, excluding dispensing fees, prior to the  
266 application of copayments, coinsurance, and other cost-sharing  
267 charges, if any.

268 (c) ~~(b)~~ "Pharmacy benefit manager" means a person or entity  
269 doing business in this state which contracts to administer or  
270 manage prescription drug benefits on behalf of a health  
271 maintenance organization to residents of this state.

272 (d) "Rebate" means all discounts and other negotiated  
273 price concessions based on utilization of a prescription drug  
274 and paid by the pharmaceutical manufacturer or other entity,  
275 other than a subscriber, to the pharmacy benefit manager after

276 | the claim has been adjudicated at the pharmacy.

277 |       (e) "Spread pricing" means any amount a pharmacy benefit  
278 | manager charges or receives from a health maintenance  
279 | organization for payment of a prescription drug or pharmacy  
280 | service that is greater than the amount the pharmacy benefit  
281 | manager paid to the pharmacist or pharmacy that filled the  
282 | prescription or provided the pharmacy service.

283 |       (2) A contract between a health maintenance organization  
284 | and a pharmacy benefit manager must require that the pharmacy  
285 | benefit manager:

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

288 |       (b) Maintain a process that will, in a timely manner,  
289 | eliminate drugs from maximum allowable cost lists or modify drug  
290 | prices to remain consistent with changes in pricing data used in  
291 | formulating maximum allowable cost prices and product  
292 | availability.

293 |       (3) A contract between a health maintenance organization  
294 | and a pharmacy benefit manager must prohibit the pharmacy  
295 | benefit manager from limiting a pharmacist's ability to disclose  
296 | whether the cost-sharing obligation exceeds the retail price for  
297 | a covered prescription drug, and the availability of a more  
298 | affordable alternative drug, pursuant to s. 465.0244.

299 |       (4) A contract between a health maintenance organization  
300 | and a pharmacy benefit manager must prohibit the pharmacy

301 benefit manager from requiring a subscriber to make a payment  
302 for a prescription drug at the point of sale in an amount that  
303 exceeds the lesser of:

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

305 (b) The retail price of the drug in the absence of  
306 prescription drug coverage.

307 (5) A contract between a health maintenance organization  
308 and a pharmacy benefit manager must require the pharmacy benefit  
309 manager to report annually the following to the health  
310 maintenance organization:

311 (a) The aggregate amount of rebates the pharmacy benefit  
312 manager received in association with claims administered on  
313 behalf of the health maintenance organization and the aggregate  
314 amount of such rebates the pharmacy benefit manager received  
315 that were not passed through to the health maintenance  
316 organization.

317 (b) The aggregate amount of administrative fees paid to  
318 the pharmacy benefit manager by the health maintenance  
319 organization for the administration of the health maintenance  
320 organization's prescription drug benefit programs.

321 (c) The types and aggregate amounts of any fees or  
322 remittances paid to the pharmacy benefit manager by pharmacies.

323 (d) The aggregate amount of revenue generated by the  
324 pharmacy benefit manager through the use of spread pricing in  
325 association with the administration of the health maintenance

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326 | organization's pharmacy benefit programs.

327 |       (6) Not later than June 30, 2021, and annually thereafter,  
328 | a health maintenance organization shall submit a report to the  
329 | office that includes the information provided by its contracted  
330 | pharmacy benefit managers under subsection (5). The office shall  
331 | publish the reports and an analysis of the reported information  
332 | on its website.

333 |       ~~(7)-(5)~~ This section applies to contracts entered into or  
334 | renewed on or after July 1, 2020 ~~2018~~.

335 |       Section 7. This act shall take effect July 1, 2020.