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FIRST REPRINT

A.B. 141

ASSEMBLY BILL NO. 141—ASSEMBLYMEN
HARDY, ROBERTS; HAFEN AND LEAVITT

FEBRUARY 14, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits a pharmacy benefit manager from imposing certain limitations on the conduct of a pharmacist or pharmacy. (BDR 57-947)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pharmacy benefit managers; prohibiting a pharmacy benefit manager from imposing certain limitations on the conduct of a pharmacist or pharmacy under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law forbids a pharmacy benefit manager, which is defined as an entity that contracts with or is employed by a third party and manages the pharmacy benefits plan provided by the third party, from prohibiting a pharmacist or pharmacy from providing information to a person covered by a pharmacy benefits plan concerning the amount of any copayment or coinsurance for a prescription drug or the clinical efficacy of a less expensive alternative drug. (NRS 683A.179) This bill additionally forbids a pharmacy benefit manager from prohibiting a pharmacist or pharmacy, other than an institutional pharmacy or a pharmacist working in an institutional pharmacy, from providing information to such a person concerning the availability of a less expensive or more effective drug. If the usual and customary price of a covered prescription drug is lower than the amount of the copayment or coinsurance for the drug, this bill also prohibits a pharmacy benefit manager from prohibiting a pharmacist or pharmacy, other than an institutional pharmacy or a pharmacist working in an institutional pharmacy, from disclosing that price.

Existing law prohibits a pharmacy benefit manager from penalizing a pharmacist or pharmacy for selling a less expensive alternative drug to a person covered by a pharmacy benefits plan. (NRS 683A.179) This bill also prohibits a pharmacy benefit manager from penalizing a pharmacist or pharmacy, other than an institutional pharmacy or a pharmacist working in an institutional pharmacy, for selling a less expensive generic drug or a more effective drug to such a person.



* A B 1 4 1 R 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 683A.179 is hereby amended to read as follows:

683A.179 1. A pharmacy benefit manager shall not:

(a) Prohibit a pharmacist or pharmacy from providing information to a covered person concerning ~~the~~ :

(1) *The* amount of any copayment or coinsurance for a prescription drug ~~for informing a covered person concerning the~~ ;

(2) *The availability of a less expensive alternative or generic drug or a more effective drug, including, without limitation, information concerning* clinical efficacy of *such a* ~~less expensive alternative~~ drug; or

(3) *If the usual and customary price of a covered prescription drug is lower than the copayment or coinsurance for the drug, the amount of that usual and customary price.*

(b) Penalize a pharmacist or pharmacy for providing the information described in paragraph (a) or selling a less expensive alternative *or generic* drug *or a more effective drug* to a covered person;

(c) Prohibit a pharmacy from offering or providing delivery services directly to a covered person as an ancillary service of the pharmacy; or

(d) If the pharmacy benefit manager manages a pharmacy benefits plan that provides coverage through a network plan, charge a copayment or coinsurance for a prescription drug in an amount that is greater than the total amount paid to a pharmacy that is in the network of providers under contract with the third party.

2. *The provisions of this section:*

(a) *Must not be construed to authorize a pharmacist to dispense a drug that has not been prescribed by a practitioner, as defined in NRS 639.0125.*

(b) *Do not apply to an institutional pharmacy, as defined in NRS 639.0085, or a pharmacist working in such a pharmacy as an employee or independent contractor.*

3. As used in this section ~~["network"]~~ :

(a) *"Network* plan" means a health benefit plan offered by a health carrier under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

(b) *"Usual and customary price" means the usual and customary charges that a pharmacy charges to the general public for a drug, as described in 42 C.F.R. § 447.512.*



1 **Sec. 2.** 1. The provisions NRS 683A.179, as amended by
2 section 1 of this act, apply to any contract entered into before, on or
3 after July 1, 2019, with a pharmacy benefit manager to manage a
4 pharmacy benefits plan for a third party.

5 2. As used in this section:

6 (a) “Pharmacy benefit manager” has the meaning ascribed to it
7 in NRS 683A.174.

8 (b) “Pharmacy benefits plan” has the meaning ascribed to it in
9 NRS 683A.175.

10 (c) “Third party” has the meaning ascribed to it in
11 NRS 683A.176.

12 **Sec. 3.** This act becomes effective on July 1, 2019.

