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S.252

Representative Pearson of Burlington moves to amend the House Proposal of Amendment by striking out Sec. 16, 18 V.S.A. § 9472, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 18 V.S.A. § 9472 is amended to read:

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES

WITH RESPECT TO HEALTH INSURERS

(c) ~~Unless the contract provides otherwise, a~~ A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall:

(1) Provide all financial and utilization information requested by a health insurer relating to the provision of benefits to beneficiaries through that health insurer's health plan and all financial and utilization information relating to services to that health insurer. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection may not be disclosed by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an

1 opportunity to be heard to the pharmacy benefit manager on why the
2 information should remain confidential;

3 (B) when authorized by 9 V.S.A. chapter 63;

4 (C) when ordered by a court for good cause shown; or

5 (D) when ordered by the ~~commissioner~~ Commissioner as to a health
6 insurer as defined in subdivision 9471(2)(A) of this title pursuant to the
7 provisions of Title 8 and this title.

8 (2) Notify a health insurer in writing of any proposed or ongoing
9 activity, policy, or practice of the pharmacy benefit manager that presents,
10 directly or indirectly, any conflict of interest with the requirements of this
11 section.

12 (3) With regard to the dispensation of a substitute prescription drug for a
13 prescribed drug to a beneficiary in which the substitute drug costs more than
14 the prescribed drug and the pharmacy benefit manager receives a benefit or
15 payment directly or indirectly, disclose to the health insurer the cost of both
16 drugs and the benefit or payment directly or indirectly accruing to the
17 pharmacy benefit manager as a result of the substitution.

18 (4) If the pharmacy benefit manager derives any payment or benefit for
19 the dispensation of prescription drugs within the state based on volume of sales
20 for certain prescription drugs or classes or brands of drugs within the state,
21 pass that payment or benefit on in full to the health insurer.

1 (5) Disclose to the health insurer all financial terms and arrangements for
2 remuneration of any kind that apply between the pharmacy benefit manager
3 and any prescription drug manufacturer that relate to benefits provided to
4 beneficiaries under or services to the health insurer's health plan, including
5 formulary management and drug-switch programs, educational support, claims
6 processing, and pharmacy network fees charged from retail pharmacies and
7 data sales fees. A pharmacy benefit manager providing information under this
8 subsection may designate that material as confidential. Information designated
9 as confidential by a pharmacy benefit manager and provided to a health insurer
10 under this subsection may not be disclosed by the health insurer to any person
11 without the consent of the pharmacy benefit manager, except that disclosure
12 may be made by the health insurer:

13 (A) in a court filing under the consumer protection provisions of 9
14 V.S.A. chapter 63, provided that the information shall be filed under seal and
15 that prior to the information being unsealed, the court shall give notice and an
16 opportunity to be heard to the pharmacy benefit manager on why the
17 information should remain confidential;

18 (B) when authorized by 9 V.S.A. chapter 63;

19 (C) when ordered by a court for good cause shown; or

1 (D) when ordered by the ~~commissioner~~ Commissioner as to a health
2 insurer as defined in subdivision 9471(2)(A) of this title pursuant to the
3 provisions of Title 8 and this title.

4 (d) At least annually, a pharmacy benefit manager that provides pharmacy
5 benefit management for a health plan shall disclose to the health insurer, the
6 Department of Financial Regulation, and the Green Mountain Care Board the
7 aggregate amount the pharmacy benefit manager retained on all claims charged
8 to the health insurer for prescriptions filled during the preceding calendar year
9 in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

10 (e) Compliance with the requirements of this section is required for
11 pharmacy benefit managers entering into contracts with a health insurer in this
12 ~~state~~ State for pharmacy benefit management in this ~~state~~ State.