
This act summary is provided for the convenience of the public and members of the General Assembly. It is intended to provide a general summary of the act and may not be exhaustive. It has been prepared by the staff of the Office of Legislative Counsel without input from members of the General Assembly. It is not intended to aid in the interpretation of legislation or to serve as a source of legislative intent.

Act No. 131 (H.353). Health; health insurance; prescription drugs; pharmacies; pharmacy benefit managers

An act relating to pharmacy benefit management

This act expresses legislative intent to make prescription drugs more affordable and accessible by increasing State regulation of pharmacy benefit managers (PBMs) and to stabilize and safeguard against the loss of more independent and community pharmacies. The act directs the Department of Financial Regulation (DFR) to monitor the cost impacts of PBM regulation and recommend changes as needed to promote health care affordability. The act specifies that PBMs owe a fiduciary duty to their health insurer clients, prohibits certain provisions in PBM contracts with health insurers, and limits the amount a PBM can require a covered person to pay for a drug. It expands prohibitions on “gag clauses” in PBM contracts with pharmacies and pharmacists, in which pharmacists are restricted from providing information to patients about costs, treatments, insurance practices, and other matters, and prohibits PBM contracts from restricting the information that pharmacies and pharmacists can provide to DFR, law enforcement, or State or federal government officials. The act requires PBMs to allow pharmacies certain appeal rights, prohibits PBMs from discriminating against 340B covered entities, and extends until April 1, 2024, an existing prohibition on PBMs imposing certain requirements on pharmacies related to 340B drugs. The act also prohibits PBMs from reimbursing pharmacies and pharmacists in Vermont less than they would reimburse PBM affiliates for the same services, prohibits PBMs from imposing limitations or requirements on a licensed pharmacy that exceed those from the Vermont Board of Pharmacy or in other State or federal law, and requires a PBM to provide notice to participating pharmacies before changing its prescription drug formulary.

The act provides additional rights to pharmacies during a PBM audit and requires PBMs to allow participating network pharmacies to perform all pharmacy services within the statutory scope of practice for pharmacy. It prohibits PBMs from requiring covered persons to use mail-order pharmacies or PBM affiliates or from increasing out-of-pocket costs when a covered person does not use mail-order pharmacy or PBM affiliate. The act prohibits PBMs from having network requirements that are more restrictive than or inconsistent with State or federal law, Board of Pharmacy rules, or guidance from the Board of Pharmacy or drug manufacturers or that would limit or prohibit a pharmacy or pharmacist from dispensing or prescribing drugs. The act also prohibits health

insurers and PBMs from requiring that a pharmacy that they designate dispense a medication directly to a patient for the patient to bring to the provider's office to be administered there, or that a pharmacy that they designate dispense a medication directly to a provider's office to be administered to the patient in the provider's office.

The act requires DFR, in consultation with interested stakeholders, to consider issues including PBM licensure, spread pricing, pharmacist dispensing fees, and, with the Board of Pharmacy, issues regarding pharmacist scope of practice. DFR's findings and recommendations are due to the legislative committees of jurisdiction by January 15, 2023.

Multiple effective dates, beginning on May 24, 2022