

HB0768/887275/1

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 768
(Third Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 22, strike “make certain determinations” and substitute “collect and review certain information, make a certain determination, monitor and review certain actions, assess certain information, study certain matters,”; in line 24, after “date;” insert “requiring the Board to verify that a certain state has obtained certain consent of a certain owner before taking certain actions; authorizing only certain Board members and staff to access certain information; requiring that the Board’s certain access, use, or sharing of certain information gives rise to a certain cause of action and results in the immediate termination of a certain memorandum of understanding; requiring that, if the Board willfully shares or discloses certain information for certain purposes, the Board shall provide for certain damages;”; strike beginning with “set” in line 36 down through “factors” in line 37 and substitute “recommend a certain strategy”; and strike beginning with “requiring” in line 42 down through “date;” in line 43.

On pages 2 and 3, strike beginning with “requiring” in line 45 on page 2 down through “list;” in line 1 on page 3.

On page 3, in line 25, strike “21-2C-14” and substitute “21-2C-13”.

AMENDMENT NO. 2

On page 7, in line 20, after “**MANUFACTURERS**” insert “**, OR A PHARMACY BENEFITS MANAGER OR A TRADE ASSOCIATION FOR PHARMACY BENEFITS MANAGERS**”.

On page 8, in line 24, after “**SUBTITLE;**” insert “**AND**”; strike lines 25 through 27, inclusive; and in line 28, strike “**3.**” and substitute “**2.**”.

(Over)

On page 11, in line 4, strike "25" and substitute "26"; after line 26, insert:

"(V) ONE REPRESENTATIVE OF DENTISTS;";

and in line 27, strike "(V)" and substitute "(VI)".

On page 12, in lines 1, 3, and 4, strike "(VI)", "(VII)", and "(VIII)", respectively, and substitute "(VII)", "(VIII)", and "(IX)", respectively.

On page 14, strike beginning with "ON" in line 15 down through "SHORTAGE" in line 24 and substitute "ON OR BEFORE DECEMBER 31, 2020, THE BOARD, IN CONSULTATION WITH THE STAKEHOLDER COUNCIL, SHALL:

(1) COLLECT AND REVIEW PUBLICLY AVAILABLE INFORMATION REGARDING BRAND AND GENERIC BIOPHARMACEUTICAL MANUFACTURERS, HEALTH INSURERS, PHARMACEUTICAL WHOLESALERS, AND PHARMACY BENEFITS MANAGERS;

(2) REVIEW ANY INFORMATION REQUESTED UNDER § 21-2C-08(C)(2)(I) OF THIS SUBTITLE;

(3) DETERMINE WHAT ADDITIONAL DATA IS NECESSARY TO CARRY OUT ITS DUTIES UNDER THIS SUBTITLE AND HOW TO ACCESS THE DATA;

(4) REVIEW AND ASSESS THE PHARMACEUTICAL DISTRIBUTION AND PAYMENT SYSTEM IN THE STATE;

(5) MONITOR AND REVIEW POTENTIAL AND ACTUAL FEDERAL CHANGES TO THE PHARMACEUTICAL DISTRIBUTION AND PAYMENT SYSTEM,

INCLUDING PROPOSED FEDERAL REGULATIONS THAT WOULD REDUCE OUT-OF-POCKET SPENDING ON PRESCRIPTION DRUGS;

(6) MONITOR AND REVIEW FEDERAL REGULATIONS GOVERNING THE MEDICAID DRUG REBATE PROGRAM TO SUPPORT VOLUNTARY, VALUE-BASED PURCHASING ARRANGEMENTS BETWEEN STATES AND MANUFACTURERS;

(7) ASSESS THE IMPACT OF POTENTIAL AND ACTUAL FEDERAL CHANGES TO THE PHARMACEUTICAL DISTRIBUTION AND PAYMENT SYSTEM;

(8) MONITOR AND REVIEW THE IMPACT OF STEPS TAKEN BY THE DEPARTMENT, THE MARYLAND INSURANCE ADMINISTRATION, AND OTHER STATE AGENCIES TO INCREASE TRANSPARENCY AND LOWER THE COST OF PRESCRIPTION DRUGS;

(9) STUDY DIFFERENT CAUSES OF DRUG SHORTAGES AND HOW DRUG SHORTAGES IMPACT THE COST OF PRESCRIPTION DRUG PRODUCTS;

(10) STUDY WHETHER UPPER PAYMENT LIMITS WOULD BE APPROPRIATE IN ADDRESSING COSTS; AND

(11) STUDY OTHER POLICY PROPOSALS FROM ACROSS THE COUNTRY TO LOWER THE COST OF PRESCRIPTION DRUGS, INCLUDING A REVERSE AUCTION MARKETPLACE”.

On page 15, after line 2, insert:

“(C) (1) BEFORE OBTAINING OR USING ANY INFORMATION OBTAINED THROUGH A MEMORANDUM OF UNDERSTANDING ENTERED INTO WITH ANOTHER STATE UNDER THIS SUBTITLE, THE BOARD SHALL VERIFY THAT THE STATE

(Over)

PROVIDING THE INFORMATION TO THE BOARD HAS OBTAINED THE EXPRESS CONSENT OF THE OWNER OF ANY TRADE SECRET INFORMATION, CONFIDENTIAL COMMERCIAL OR PROPRIETARY INFORMATION, OR INFORMATION DESIGNATED AS CONFIDENTIAL BY THE OWNER OF THE INFORMATION.

(2) ONLY BOARD MEMBERS AND STAFF MAY ACCESS THE INFORMATION OBTAINED THROUGH A MEMORANDUM OF UNDERSTANDING ENTERED INTO WITH ANOTHER STATE UNDER THIS SUBTITLE.

(3) THE BOARD'S UNAUTHORIZED ACCESS, USE, OR SHARING OF ANY TRADE SECRET INFORMATION, CONFIDENTIAL COMMERCIAL OR PROPRIETARY INFORMATION, OR INFORMATION DESIGNATED AS CONFIDENTIAL BY THE OWNER OF THE INFORMATION IN ACCORDANCE WITH A MEMORANDUM OF UNDERSTANDING SHALL:

(I) GIVE RISE TO A CAUSE OF ACTION, AND BE SUBJECT TO ALL APPLICABLE REMEDIES, INCLUDING CIVIL AND CRIMINAL PENALTIES UNDER ANY APPLICABLE FEDERAL AND STATE TRADE SECRET MISAPPROPRIATION LAW; AND

(II) RESULT IN THE IMMEDIATE TERMINATION OF THE MEMORANDUM OF UNDERSTANDING.

(4) IF THE BOARD WILLFULLY SHARES OR DISCLOSES FOR UNAUTHORIZED PURPOSES INFORMATION THAT IS TRADE SECRET INFORMATION, CONFIDENTIAL COMMERCIAL OR PROPRIETARY INFORMATION, OR INFORMATION DESIGNATED AS CONFIDENTIAL BY THE OWNER OF THE INFORMATION, THE BOARD SHALL PROVIDE FOR STATUTORY DAMAGES TO THE OWNER OF THE INFORMATION THE AMOUNT OF \$200,000 PER VIOLATION, IN

ADDITION TO BEING SUBJECT TO ANY PENALTIES AVAILABLE UNDER FEDERAL AND STATE LAWS, INCLUDING TRADE SECRET MISAPPROPRIATION LAWS, TO THE EXTENT ALLOWED BY LAW.”;

in line 3, strike “(C)” and substitute “(D)”;

in line 8, after “SECTION;” insert “AND”; in line 11, strike “;AND” and substitute a period; and strike lines 12 through 14, inclusive.

On page 17, strike beginning with “OR” in line 19 down through “SECTION” in line 20.

On page 19, strike beginning with “SET” in line 23 down through “DRUG” in line 30 and substitute “RECOMMEND A STRATEGY FOR MAKING THE DRUG MORE AFFORDABLE IN THE STATE”.

On page 21, strike lines 7 through 28, inclusive.

On page 22, strike lines 1 through 9, inclusive; in lines 10, 17, 20, and 28, strike “21-2C-10.”, “21-2C-11.”, “21-2C-12.”, and “21-2C-13.”, respectively, and substitute “21-2C-09.”, “21-2C-10.”, “21-2C-11.”, and “21-2C-12.”, respectively; and strike beginning with “THE” in line 23 down through “(C)” in line 25.

On page 24, in line 18, strike “21-2C-14.” and substitute “21-2C-13.”; in line 19, strike “2021” and substitute “2020”; and in line 31, after “STATE” insert “, INCLUDING TO EXPAND THE AUTHORITY OF THE BOARD”.

On page 25, in line 24, strike “eight” and substitute “nine”.

On page 26, in line 18, strike “upper payment limits and”; in line 23, strike “the upper payment limits established” and substitute “policy actions”; and strike lines 29 through 33, inclusive.

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On page 27, strike lines 1 through 7, inclusive; in line 8, strike "6." and substitute "5."; in line 17, strike "7." and substitute "6."; and in line 22, strike "8." and substitute "7.".