

---

By: **Delegates Rudolph, Benson, Elliott, Kullen, Morhaim, Murray, Oaks,  
and Weldon**

Introduced and read first time: January 30, 2006

Assigned to: Health and Government Operations

---

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers Regulation Act of 2006**

3 FOR the purpose of prohibiting a pharmacy benefits manager from establishing the  
4 amount of a certain reimbursement on a certain basis; prohibiting a pharmacy  
5 benefits manager from imposing a certain copayment, deductible, limit on  
6 quantity, or other condition, under certain circumstances; requiring an  
7 insurance policy or contract or a pharmacy benefits manager to allow an insured  
8 or certificate holder to obtain pharmaceutical benefits from the pharmacy or  
9 pharmacist of the insured or certificate holder's choice, within any pharmacy  
10 network; exempting certain managed care organizations, insurers, nonprofit  
11 health service plans, and health maintenance organizations, and affiliates,  
12 subsidiaries, or other related entities of certain insurers, nonprofit health  
13 service plans, and health maintenance organizations from certain provisions of  
14 this Act, under certain circumstances; requiring a person to register with the  
15 Maryland Insurance Commissioner before the person acts as or represents itself  
16 as a pharmacy benefits manager in the State; requiring an applicant for  
17 registration to file an application on a certain form and pay to the Commissioner  
18 a certain fee; requiring the Commissioner to register certain applicants;  
19 providing for the expiration and renewal of a registration; prohibiting a  
20 pharmacy benefits manager from taking certain actions; authorizing the  
21 Commissioner to deny, suspend, or revoke a registration or refuse to renew a  
22 registration under certain circumstances and subject to certain hearing  
23 provisions; authorizing the Commissioner, if a registration is suspended or  
24 revoked, to permit the continued operation of a pharmacy benefits manager, for  
25 a certain period of time and under certain circumstances; requiring a pharmacy  
26 benefits manager to register as a third party administrator or a private review  
27 agent under certain circumstances; requiring a certain pharmacy benefits  
28 manager to pay and adjust claims according to certain statutory requirements;  
29 prohibiting, with a certain exception, an insurer, nonprofit health service plan,  
30 or health maintenance organization from entering into an agreement with a  
31 pharmacy benefits manager that has not registered with the Commissioner;  
32 requiring the Commissioner to conduct a certain examination in accordance  
33 with certain provisions of law; requiring a pharmacy benefits manager to  
34 maintain certain books and records for a certain period and in accordance with

1 certain standards; requiring the Commissioner to adopt certain regulations on  
2 or before a certain date; requiring a pharmacy benefits manager to disclose in  
3 writing certain information to a prospective purchaser and a purchaser;  
4 specifying the manner in which certain disclosures must be provided; providing  
5 that a pharmacy benefits manager need not make certain disclosures unless and  
6 until the prospective purchaser or the purchaser agrees in writing to maintain  
7 certain information as confidential; providing that certain agreements may  
8 include certain remedies and certain persons; requiring a contract executed by a  
9 pharmacy benefits manager for the provision of pharmacy benefits management  
10 services to include certain items; establishing certain requirements for members  
11 of a pharmacy and therapeutics committee; prohibiting a pharmacy benefits  
12 manager from substituting one prescription drug for the drug originally  
13 prescribed unless certain conditions are met; requiring a pharmacy benefits  
14 manager to disclose certain information to a purchaser if a drug substitution is  
15 made; requiring a pharmacy benefits manager to obtain a certain authorization  
16 to make a drug substitution and to make certain disclosures to a prescriber;  
17 providing for certain exceptions; prohibiting a pharmacy benefits manager from  
18 substituting a drug for a currently prescribed drug unless the pharmacy  
19 benefits manager provides a beneficiary or the beneficiary's representative with  
20 certain information; requiring a pharmacy benefits manager to maintain a  
21 certain toll-free telephone number; requiring a pharmacy benefits manager to  
22 enter into certain contracts with pharmacy providers under certain  
23 circumstances; specifying certain requirements of the contracts; requiring a  
24 pharmacy benefits manager to allow a beneficiary to obtain covered pharmacy  
25 services from a certain pharmacy provider and allow a certain pharmacy that  
26 can meet certain conditions to provide certain services; requiring certain  
27 disclosures to comply with certain privacy standards; providing certain  
28 penalties; altering the definition of a "nonresident pharmacy" to include a  
29 pharmacy benefits manager under certain provisions of law; requiring a  
30 nonresident pharmacy to meet certain requirements; making certain provisions  
31 of law applicable to health maintenance organizations; allowing a certain person  
32 to act as a pharmacy benefits manager without registering with the Maryland  
33 Insurance Commissioner under certain circumstances; defining certain terms;  
34 and generally relating to regulation of pharmacy benefits managers.

35 BY adding to  
36 Article - Health - General  
37 Section 19-706(ggg)  
38 Annotated Code of Maryland  
39 (2005 Replacement Volume and 2005 Supplement)

40 BY repealing and reenacting, with amendments,  
41 Article - Insurance  
42 Section 15-805  
43 Annotated Code of Maryland  
44 (2002 Replacement Volume and 2005 Supplement)

1 BY adding to  
2 Article - Insurance  
3 Section 15-1701 through 15-1723, inclusive, to be under the new subtitle  
4 "Subtitle 17. Pharmacy Benefits Managers"  
5 Annotated Code of Maryland  
6 (2002 Replacement Volume and 2005 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article - Health Occupations  
9 Section 12-101(k) and 12-403(e) and (f)  
10 Annotated Code of Maryland  
11 (2005 Replacement Volume)

12 BY repealing and reenacting, without amendments,  
13 Article - Health Occupations  
14 Section 12-403(a), (b)(17), (d), and (g)  
15 Annotated Code of Maryland  
16 (2005 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Health - General**

20 19-706.

21 (GGG) THE PROVISIONS OF § 15-805 AND TITLE 15, SUBTITLE 17 OF THE  
22 INSURANCE ARTICLE SHALL APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

23 **Article - Insurance**

24 15-805.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) "Authorized prescriber" means a licensed dentist, licensed physician,  
27 or licensed podiatrist who is authorized under the Health Occupations Article to  
28 prescribe a pharmaceutical product.

29 (3) "Pharmaceutical product" means a drug or medicine that may be  
30 prescribed by an authorized prescriber.

31 (4) "PHARMACY BENEFITS MANAGER" HAS THE MEANING STATED IN §  
32 15-1701 OF THIS TITLE.

33 (b) This section does not apply to a policy or contract that is issued to an  
34 employer under a collective bargaining agreement.

1 (c) (1) This subsection applies to:

2 (I) each policy or contract that is issued or delivered in the State to  
3 an employer or individual by an insurer or nonprofit health service plan and that  
4 provides group or individual hospital, medical, or surgical benefits; AND

5 (II) EACH PHARMACY BENEFITS MANAGER THAT PROVIDES  
6 SERVICES, INCLUDING SERVICES PROVIDED AS AN AGENT OR CONTRACTOR, UNDER  
7 A POLICY OR CONTRACT UNDER ITEM (I) OF THIS PARAGRAPH.

8 (2) A policy, [or] contract, OR PHARMACY BENEFITS MANAGER subject to  
9 this subsection that provides reimbursement for a pharmaceutical product prescribed  
10 by an authorized prescriber may not establish the amount of reimbursement to the  
11 insured or the insured's beneficiary, including copayments and deductibles, based on  
12 the identity, practicing specialty, or occupation of the authorized prescriber.

13 (d) (1) This subsection applies to:

14 (I) each individual or group policy or contract that is issued or  
15 delivered in the State to an employer or individual by an insurer or nonprofit health  
16 service plan and that provides benefits for pharmaceutical products; AND

17 (II) EACH PHARMACY BENEFITS MANAGER THAT PROVIDES  
18 SERVICES, INCLUDING SERVICES PROVIDED AS AN AGENT OR CONTRACTOR, UNDER  
19 A POLICY OR CONTRACT UNDER ITEM (I) OF THIS PARAGRAPH.

20 (2) A policy, [or] contract, OR PHARMACY BENEFITS MANAGER subject to  
21 this subsection may not impose a copayment, deductible, LIMIT ON QUANTITY, or  
22 other condition on an insured or certificate holder who uses the services of a  
23 community pharmacy that is not imposed when the insured or certificate holder uses  
24 the services of a mail order pharmacy, if the benefits are provided under the same  
25 program, policy, or contract.

26 (E) (1) THIS SUBSECTION APPLIES TO:

27 (I) EACH INDIVIDUAL OR GROUP POLICY OR CONTRACT THAT IS  
28 ISSUED OR DELIVERED IN THE STATE TO AN EMPLOYER OR INDIVIDUAL BY AN  
29 INSURER AND THAT PROVIDES BENEFITS FOR PHARMACEUTICAL PRODUCTS; AND

30 (II) EACH PHARMACY BENEFITS MANAGER THAT PROVIDES  
31 SERVICES, INCLUDING SERVICES PROVIDED AS AN AGENT OR CONTRACTOR, UNDER  
32 A POLICY OR CONTRACT UNDER ITEM (I) OF THIS PARAGRAPH.

33 (2) A POLICY, CONTRACT, OR PHARMACY BENEFITS MANAGER SUBJECT  
34 TO THIS SUBSECTION SHALL ALLOW AN INSURED OR CERTIFICATE HOLDER TO  
35 SELECT THE PHARMACY OR PHARMACIST OF THE INSURED OR CERTIFICATE  
36 HOLDER'S CHOICE FOR PHARMACEUTICAL BENEFITS, WITHIN ANY PHARMACY  
37 NETWORK ESTABLISHED UNDER OR BY THE POLICY, CONTRACT, OR PHARMACY  
38 BENEFITS MANAGER.

## SUBTITLE 17. PHARMACY BENEFITS MANAGERS.

15-1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BENEFICIARY" MEANS AN INDIVIDUAL ON WHOSE BEHALF A PURCHASER ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER.

(C) "EXTRAPOLATION AUDIT" MEANS AN AUDIT OF A SAMPLE OF PRESCRIPTION BENEFIT CLAIMS SUBMITTED BY A PHARMACY TO A PHARMACY BENEFITS MANAGER OR ITS DESIGNATED CONTRACTOR OR AGENT THAT IS USED TO ESTIMATE AUDIT RESULTS FOR A LARGER BATCH OR GROUP OF CLAIMS.

(D) "LABELER" MEANS A PERSON THAT:

(1) RECEIVES PRESCRIPTION DRUGS FROM A MANUFACTURER OR WHOLESALER AND REPACKAGES THOSE DRUGS FOR LATER RETAIL SALE; AND

(2) HAS A LABELER CODE FROM THE FEDERAL FOOD AND DRUG ADMINISTRATION UNDER 21 CFR § 207.20.

(E) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.

(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:

(I) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;

(II) PROCESSING OF PRESCRIPTION DRUG CLAIMS;

(III) ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND

(IV) NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.

(F) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

(G) "PHARMACY PROVIDER" MEANS A PHARMACY OR A PHARMACIST.

(H) "PROSPECTIVE PURCHASER" MEANS A PERSON TO WHICH A PHARMACY BENEFITS MANAGER OFFERS TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES.

(I) (1) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

1 (2) "PURCHASER" INCLUDES THE STATE.

2 (J) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THE  
3 COMMERCIAL LAW ARTICLE.

4 (K) (1) "UTILIZATION REVIEW" HAS THE MEANING STATED IN § 15-10B-01 OF  
5 THIS TITLE.

6 (2) "UTILIZATION REVIEW" INCLUDES:

7 (I) DRUG UTILIZATION MANAGEMENT;

8 (II) DRUG UTILIZATION REVIEW SERVICES; AND

9 (III) STEP PROTOCOL THERAPY MANAGEMENT.

10 15-1702.

11 (A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A MANAGED CARE  
12 ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL  
13 ARTICLE.

14 (B) THE PROVISIONS OF §§ 15-1703 THROUGH 15-1717 OF THIS SUBTITLE DO  
15 NOT APPLY TO AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
16 MAINTENANCE ORGANIZATION, OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED  
17 ENTITY OF AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
18 MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF AS A PHARMACY  
19 BENEFITS MANAGER IF:

20 (1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
21 MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR OTHER RELATED  
22 ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
23 MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES PHARMACY  
24 BENEFITS MANAGEMENT SERVICES; AND

25 (2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE OFFERED  
26 OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSURED WHO ALSO ARE  
27 COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE INSURER,  
28 NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.

29 15-1703.

30 (A) A PERSON SHALL REGISTER WITH THE COMMISSIONER BEFORE THE  
31 PERSON ACTS AS OR REPRESENTS ITSELF AS A PHARMACY BENEFITS MANAGER IN  
32 THE STATE.

33 (B) AN APPLICANT FOR REGISTRATION SHALL:

34 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM  
35 THAT THE COMMISSIONER PROVIDES; AND

1 (2) PAY TO THE COMMISSIONER A REGISTRATION FEE SET BY THE  
2 COMMISSIONER.

3 (C) THE COMMISSIONER SHALL REGISTER EACH APPLICANT THAT MEETS  
4 THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION.

5 15-1704.

6 (A) A REGISTRATION EXPIRES AT THE END OF EVERY OTHER JUNE 30, UNLESS  
7 IT IS RENEWED AS PROVIDED IN THIS SECTION.

8 (B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW FOR AN  
9 ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

10 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

11 (2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE  
12 FORM THE COMMISSIONER REQUIRES; AND

13 (3) PAYS TO THE COMMISSIONER A RENEWAL FEE AS SET BY THE  
14 COMMISSIONER.

15 (C) AN APPLICATION FOR RENEWAL OF A REGISTRATION SHALL BE  
16 CONSIDERED TIMELY IF POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF THE  
17 RENEWAL.

18 15-1705.

19 A PHARMACY BENEFITS MANAGER MAY NOT:

20 (1) VIOLATE ANY PROVISION OF THIS ARTICLE;

21 (2) VIOLATE ANY REGULATION ADOPTED UNDER THIS SUBTITLE;

22 (3) KNOWINGLY FAIL TO COMPLY WITH AN ORDER OF THE  
23 COMMISSIONER;

24 (4) FAIL TO MEET THE REQUIREMENTS FOR REGISTRATION  
25 ESTABLISHED BY THE COMMISSIONER UNDER § 15-1703(C) OF THIS SUBTITLE;

26 (5) OBTAIN OR ATTEMPT TO OBTAIN A REGISTRATION BASED ON  
27 INACCURATE INFORMATION;

28 (6) FRAUDULENTLY OR DECEPTIVELY OBTAIN OR USE A REGISTRATION;

29 (7) FAIL TO PROTECT THE CONFIDENTIALITY OF MEDICAL RECORDS IN  
30 ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS; OR

31 (8) ACT AS A PHARMACY BENEFITS MANAGER WITHOUT FIRST  
32 REGISTERING WITH THE COMMISSIONER.

1 15-1706.

2 (A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE  
3 COMMISSIONER MAY DENY, SUSPEND, OR REVOKE A REGISTRATION OR REFUSE TO  
4 RENEW A REGISTRATION IF THE APPLICANT OR REGISTRANT VIOLATES ANY  
5 PROVISION OF § 15-1705 OF THIS SUBTITLE.

6 (B) IF THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IS  
7 SUSPENDED OR REVOKED, THE COMMISSIONER, TO PROTECT THE INTERESTS OF  
8 BENEFICIARIES AND PHARMACY PROVIDERS, MAY PERMIT THE CONTINUED  
9 OPERATION OF THE PHARMACY BENEFITS MANAGER FOR A LIMITED PERIOD, NOT TO  
10 EXCEED 60 DAYS, UNDER CONDITIONS AND RESTRICTIONS DETERMINED BY THE  
11 COMMISSIONER.

12 15-1707.

13 (A) A PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE  
14 COMMISSIONER AS A THIRD PARTY ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF  
15 THIS ARTICLE IF THE PHARMACY BENEFITS MANAGER:

16 (1) PROCESSES PRESCRIPTION DRUG CLAIMS; OR

17 (2) ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG  
18 CLAIMS.

19 (B) A PHARMACY BENEFITS MANAGER THAT PROCESSES PRESCRIPTION DRUG  
20 CLAIMS OR ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS  
21 SHALL:

22 (1) PAY CLAIMS IN ACCORDANCE WITH § 15-1005 OF THIS TITLE; AND

23 (2) ADJUST CLAIMS IN ACCORDANCE WITH § 15-1008 OF THIS TITLE.

24 15-1708.

25 A PHARMACY BENEFITS MANAGER THAT CONDUCTS UTILIZATION REVIEW  
26 SHALL OBTAIN FROM THE COMMISSIONER A CERTIFICATE OF REGISTRATION AS A  
27 PRIVATE REVIEW AGENT UNDER SUBTITLE 10B OF THIS TITLE.

28 15-1709.

29 EXCEPT AS PROVIDED IN § 15-1702 OF THIS SUBTITLE, AN INSURER, NONPROFIT  
30 HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER  
31 INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER THAT HAS NOT  
32 REGISTERED WITH THE COMMISSIONER.

33 15-1710.

34 (A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE  
35 COMMISSIONER SHALL EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS,  
36 RECORDS, AND ASSETS OF EACH PHARMACY BENEFITS MANAGER.



1 (B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207  
2 OF THIS ARTICLE.

3 (C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE  
4 WITH § 2-208 OF THIS ARTICLE.

5 (D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE  
6 ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.

7 15-1711.

8 A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS AND  
9 RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS  
10 MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES:

11 (1) IN ACCORDANCE WITH PRUDENT STANDARDS OF RECORD KEEPING;

12 (2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE PHARMACY  
13 BENEFITS MANAGER AND THE PURCHASER; AND

14 (3) FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER CEASES  
15 TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES TO THE PURCHASER.

16 15-1712.

17 ON OR BEFORE APRIL 1, 2007, THE COMMISSIONER SHALL ADOPT REGULATIONS  
18 TO IMPLEMENT THIS SUBTITLE.

19 15-1713.

20 (A) A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A PROSPECTIVE  
21 PURCHASER IN WRITING:

22 (1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING  
23 PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS  
24 THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE,  
25 DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR  
26 LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS RELATED TO THE  
27 PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT  
28 WITH THE PHARMACY BENEFITS MANAGER;

29 (2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT  
30 THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE, DIRECTLY OR  
31 INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN  
32 CONNECTION WITH PRESCRIPTION DRUG BENEFITS RELATED TO THE PROSPECTIVE  
33 PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT WITH THE  
34 PHARMACY BENEFITS MANAGER;

35 (3) ANY ADMINISTRATIVE OR OTHER FEES THAT WOULD BE CHARGED  
36 BY THE PHARMACY BENEFITS MANAGER TO THE PROSPECTIVE PURCHASER;

1 (4) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL  
2 GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER  
3 PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS  
4 MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE  
5 PRESCRIPTION DRUG BENEFITS; AND

6 (5) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER,  
7 DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR DIFFERENT  
8 NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:

9 (I) THE DRUG NAME AND STRENGTH;

10 (II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW  
11 NATIONAL DRUG CODE NUMBER; AND

12 (III) THE ORIGINAL PRICE AND THE NEW PRICE.

13 (B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION  
14 SHALL BE PROVIDED:

15 (1) IN THE AGGREGATE;

16 (2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED  
17 THERAPEUTIC CLASSES; AND

18 (3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC  
19 CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.

20 (C) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.

21 15-1714.

22 (A) AT LEAST QUARTERLY, A PHARMACY BENEFITS MANAGER SHALL  
23 DISCLOSE TO A PURCHASER IN WRITING:

24 (1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING  
25 PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS  
26 THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY,  
27 FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH  
28 PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PURCHASER;

29 (2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT  
30 THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY, FROM  
31 PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH  
32 PRESCRIPTION DRUG BENEFITS RELATED TO THE PURCHASER;

33 (3) ANY PRESCRIPTION DRUG UTILIZATION INFORMATION RELATED TO  
34 UTILIZATION BY THE PURCHASER'S BENEFICIARIES OR AGGREGATE UTILIZATION  
35 DATA THAT IS NOT SPECIFIC TO AN INDIVIDUAL BENEFICIARY, PRESCRIBER, OR  
36 PURCHASER;

1 (4) ANY ADMINISTRATIVE OR OTHER FEES CHARGED BY THE PHARMACY  
2 BENEFITS MANAGER TO THE PURCHASER;

3 (5) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL  
4 GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER  
5 PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS  
6 MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE  
7 PRESCRIPTION DRUG BENEFITS;

8 (6) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER,  
9 DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR DIFFERENT  
10 NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:

11 (I) THE DRUG NAME AND STRENGTH;

12 (II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW  
13 NATIONAL DRUG CODE NUMBER; AND

14 (III) THE ORIGINAL PRICE AND THE NEW PRICE; AND

15 (7) A LIST OF PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE  
16 BETWEEN THE PRICE PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WAS  
17 BILLED TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:

18 (I) THE PRESCRIPTION NUMBER;

19 (II) THE DATE THE PRESCRIPTION WAS PROCESSED BY THE  
20 PHARMACY BENEFITS MANAGER;

21 (III) THE NATIONAL DRUG CODE NUMBER;

22 (IV) THE BENEFICIARY'S NAME; AND

23 (V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT  
24 BILLED TO THE PURCHASER.

25 (B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION  
26 SHALL BE PROVIDED:

27 (1) IN THE AGGREGATE;

28 (2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED  
29 THERAPEUTIC CLASSES; AND

30 (3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC  
31 CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.

32 (C) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.

1 15-1715.

2 (A) EXCEPT FOR UTILIZATION INFORMATION, AND EXCEPT AS PROVIDED IN  
3 SUBSECTION (D) OF THIS SECTION, A PHARMACY BENEFITS MANAGER NEED NOT  
4 MAKE THE DISCLOSURES REQUIRED UNDER §§ 15-1713 AND 15-1714 OF THIS  
5 SUBTITLE UNLESS AND UNTIL THE PROSPECTIVE PURCHASER OR THE PURCHASER  
6 AGREES IN WRITING TO MAINTAIN AS CONFIDENTIAL ANY PROPRIETARY  
7 INFORMATION DISCLOSED BY THE PHARMACY BENEFITS MANAGER.

8 (B) THE AGREEMENT UNDER SUBSECTION (A) OF THIS SECTION MAY:

9 (1) PROVIDE FOR EQUITABLE AND LEGAL REMEDIES IN THE EVENT OF A  
10 VIOLATION OF THE AGREEMENT; AND

11 (2) INCLUDE PERSONS WITH WHICH THE PROSPECTIVE PURCHASER OR  
12 PURCHASER CONTRACTS TO PROVIDE CONSULTING SERVICES RELATING TO  
13 PHARMACY BENEFITS MANAGEMENT SERVICES.

14 (C) PROPRIETARY INFORMATION INCLUDES:

15 (1) TRADE SECRETS; AND

16 (2) INFORMATION ABOUT PRICING, COSTS, REVENUES, TAXES, MARKET  
17 SHARE, NEGOTIATING STRATEGIES, CUSTOMERS, AND PERSONNEL HELD BY A  
18 PHARMACY BENEFITS MANAGER AND USED FOR ITS BUSINESS PURPOSES.

19 (D) THIS SECTION DOES NOT REDUCE THE AUTHORITY OF THE OFFICE OF  
20 THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION AND  
21 USE THE INFORMATION IN ANY PROCEEDING.

22 15-1716.

23 A CONTRACT EXECUTED BY A PHARMACY BENEFITS MANAGER FOR THE  
24 PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES SHALL INCLUDE:

25 (1) THE AMOUNT OF THE TOTAL REVENUES, REBATES, AND DISCOUNTS  
26 IDENTIFIED IN §§ 15-1713 AND 15-1714 OF THIS SUBTITLE THAT WILL BE PASSED ON  
27 TO THE PURCHASER;

28 (2) THE MAXIMUM ALLOWABLE COST AND AVERAGE WHOLESALE PRICE  
29 RESOURCES USED TO DETERMINE THE PRICE PAID TO A PHARMACY AND BILLED TO  
30 THE PURCHASER;

31 (3) THE CONDITIONS UNDER WHICH BENEFICIARY UTILIZATION DATA  
32 MAY BE DISCLOSED OR SOLD BY THE PHARMACY BENEFITS MANAGER TO ANY  
33 PERSON OTHER THAN THE PURCHASER;

34 (4) ANY ADMINISTRATIVE OR OTHER FEES:

35 (I) CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE  
36 PURCHASER; OR

1 (II) COLLECTED BY THE PHARMACY BENEFITS MANAGER ON  
2 BEHALF OF THE PURCHASER;

3 (5) (I) THE CONDITIONS UNDER WHICH AN AUDIT WILL BE  
4 CONDUCTED OF THE CONTRACT FOR PHARMACY BENEFITS MANAGEMENT  
5 SERVICES;

6 (II) WHO WILL CONDUCT THE AUDIT; AND

7 (III) WHO WILL PAY FOR THE AUDIT;

8 (6) ANY REVENUES, REBATES, OR DISCOUNTS RECEIVED, DIRECTLY OR  
9 INDIRECTLY, BY THE PHARMACY BENEFITS MANAGER FROM PERSONS OTHER THAN  
10 PHARMACEUTICAL MANUFACTURERS AND LABELERS THAT ARE RELATED TO THE  
11 PHARMACY BENEFITS MANAGEMENT SERVICES TO BE PROVIDED TO THE  
12 PURCHASER;

13 (7) THE PROCESS FOR THE DEVELOPMENT OF FORMULARIES,  
14 NOTIFICATION OF CHANGES TO FORMULARIES, AND APPROVAL OF CHANGES BY THE  
15 PURCHASER; AND

16 (8) AN AGREEMENT TO PROVIDE TO THE PURCHASER A LIST OF  
17 PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE PAID  
18 TO A RETAIL PHARMACY AND THE AMOUNT THAT WILL BE OR WAS BILLED TO THE  
19 PURCHASER INCLUDING, FOR EACH PRESCRIPTION:

20 (I) THE PRESCRIPTION NUMBER;

21 (II) THE DATE THE PRESCRIPTION DRUG WAS PROCESSED BY THE  
22 PHARMACY BENEFITS MANAGER;

23 (III) THE NATIONAL DRUG CODE NUMBER;

24 (IV) THE BENEFICIARY'S NAME; AND

25 (V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT  
26 BILLED TO THE PURCHASER.

27 15-1717.

28 (A) (1) EACH MEMBER OF A PHARMACY AND THERAPEUTICS COMMITTEE  
29 FOR A PHARMACY BENEFITS MANAGER SHALL BE:

30 (I) A PHYSICIAN OR OTHER AUTHORIZED PRESCRIBER, A  
31 PHARMACIST, OR A FACULTY MEMBER OF AN ACADEMIC MEDICAL CENTER; AND

32 (II) DISCLOSED BY NAME TO THE PURCHASER ON REQUEST.

33 (2) A MAJORITY OF COMMITTEE MEMBERS MAY NOT BE EMPLOYED BY  
34 THE PHARMACY BENEFITS MANAGER.

1 (B) A PHARMACY AND THERAPEUTICS COMMITTEE MEMBER MAY NOT:

2 (1) BE AN OFFICER, EMPLOYEE, DIRECTOR, OR AGENT OF A  
3 PHARMACEUTICAL MANUFACTURER; OR

4 (2) HAVE A FINANCIAL INTEREST IN A PHARMACEUTICAL  
5 MANUFACTURER, OTHER THAN OWNERSHIP OF A NOMINAL NUMBER OF SHARES OF  
6 THE PHARMACEUTICAL MANUFACTURER'S STOCK, PURCHASED ON A NATIONAL  
7 SECURITIES EXCHANGE.

8 15-1718.

9 (A) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER  
10 PRESCRIPTION DRUG FOR THE DRUG ORIGINALLY PRESCRIBED UNLESS:

11 (1) THE SUBSTITUTION IS MADE FOR MEDICAL REASONS THAT BENEFIT  
12 THE BENEFICIARY; OR

13 (2) THE SUBSTITUTION RESULTS IN FINANCIAL SAVINGS AND BENEFITS  
14 TO THE PURCHASER.

15 (B) IF A PRESCRIPTION DRUG SUBSTITUTION IS MADE UNDER THIS SECTION,  
16 THE PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE PURCHASER ANY  
17 BENEFIT OR PAYMENT RECEIVED IN ANY FORM BY THE PHARMACY BENEFITS  
18 MANAGER FROM A PHARMACEUTICAL MANUFACTURER OR OTHER PERSON RELATED  
19 TO THE SUBSTITUTION.

20 15-1719.

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PHARMACY  
22 BENEFITS MANAGER SHALL:

23 (1) OBTAIN AUTHORIZATION FROM A PRESCRIBER TO SUBSTITUTE A  
24 PRESCRIPTION DRUG; AND

25 (2) DISCLOSE TO THE PRESCRIBER:

26 (I) THE COST SAVINGS FOR THE PURCHASER, IF ANY, THAT RESULT  
27 FROM THE DRUG SUBSTITUTION;

28 (II) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER  
29 OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE  
30 DRUG;

31 (III) THE EXISTENCE OF ADDITIONAL PAYMENTS RECEIVED BY THE  
32 PHARMACY BENEFITS MANAGER THAT ARE NOT REFLECTED IN THE COST SAVINGS  
33 TO THE PURCHASER;

34 (IV) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY  
35 PRESCRIBED DRUG WILL BE COVERED;

1 (V) THE CIRCUMSTANCES, IF ANY, AND EXTENT TO WHICH HEALTH  
2 CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED; AND

3 (VI) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A  
4 BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS.

5 (B) IF AUTHORIZATION IS GIVEN VERBALLY, A PHARMACY BENEFITS  
6 MANAGER SHALL RECORD THE NAME AND TITLE OF THE PRESCRIBER AUTHORIZING  
7 THE PRESCRIPTION DRUG SUBSTITUTION.

8 (C) A PHARMACY BENEFITS MANAGER MAY MAKE A PRESCRIPTION DRUG  
9 SUBSTITUTION WITHOUT OBTAINING AUTHORIZATION FROM A PRESCRIBER OR  
10 MAKING THE DISCLOSURES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IF:

11 (1) THE SUBSTITUTION IS FROM A BRAND NAME DRUG TO A GENERIC  
12 DRUG, AND THE SUBSTITUTION IS MADE IN ACCORDANCE WITH § 12-504 OF THE  
13 HEALTH OCCUPATIONS ARTICLE;

14 (2) THE CURRENTLY PRESCRIBED DRUG IS NO LONGER AVAILABLE IN  
15 THE MARKET; OR

16 (3) THE SUBSTITUTION IS REQUIRED FOR COVERAGE REASONS  
17 BECAUSE THE PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S  
18 FORMULARY OR PLAN.

19 (D) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE A  
20 PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG UNLESS  
21 THE PHARMACY BENEFITS MANAGER PROVIDES THE BENEFICIARY OR THE  
22 BENEFICIARY'S REPRESENTATIVE THE FOLLOWING:

23 (1) UNLESS THE SUBSTITUTION WAS EXEMPTED UNDER SUBSECTION  
24 (C) OF THIS SECTION, A NOTIFICATION THAT:

25 (I) THE PHARMACY BENEFITS MANAGER REQUESTED A DRUG  
26 SUBSTITUTION BY CONTACTING THE BENEFICIARY'S PRESCRIBER; AND

27 (II) THE PRESCRIBER APPROVED THE DRUG SUBSTITUTION;

28 (2) THE NAMES OF THE PROPOSED DRUG SUBSTITUTION AND THE  
29 CURRENTLY PRESCRIBED DRUG;

30 (3) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER  
31 OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE  
32 DRUG;

33 (4) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A  
34 BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS;

35 (5) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY  
36 PRESCRIBED DRUG WILL BE COVERED;

1 (6) THE CIRCUMSTANCES, IF ANY, AND THE EXTENT TO WHICH HEALTH  
2 CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED;

3 (7) A NOTIFICATION THAT THE BENEFICIARY MAY DECLINE THE DRUG  
4 SUBSTITUTION IF THE CURRENTLY PRESCRIBED DRUG REMAINS ON THE  
5 BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY  
6 DIFFERENCE IN THE COPAYMENT AMOUNT; AND

7 (8) A TOLL-FREE TELEPHONE NUMBER TO COMMUNICATE WITH THE  
8 PHARMACY BENEFITS MANAGER.

9 (E) (1) A PHARMACY BENEFITS MANAGER SHALL CANCEL AND REVERSE  
10 THE PRESCRIPTION DRUG SUBSTITUTION ON WRITTEN OR VERBAL INSTRUCTIONS  
11 FROM A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE.

12 (2) IF A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S  
13 REPRESENTATIVE CANCELS AND REVERSES A DRUG SUBSTITUTION, THE PHARMACY  
14 BENEFITS MANAGER SHALL:

15 (I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE CURRENTLY  
16 PRESCRIBED DRUG;

17 (II) CHARGE THE BENEFICIARY ONLY ONE COPAYMENT; AND

18 (III) IF A BENEFICIARY WILL EXHAUST THE SUPPLY OF THE  
19 CURRENTLY PRESCRIBED DRUG BEFORE A REPLACEMENT SHIPMENT WILL ARRIVE  
20 TO THE BENEFICIARY, ARRANGE FOR DISPENSING OF AN APPROPRIATE QUANTITY  
21 OF REPLACEMENT DRUGS AT A RETAIL OR INSTITUTIONAL PHARMACY AT NO  
22 ADDITIONAL COST TO THE BENEFICIARY.

23 (3) A PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO  
24 CANCEL AND REVERSE A DRUG SUBSTITUTION IF THE PRESCRIBED DRUG IS NO  
25 LONGER ON THE PURCHASER'S FORMULARY OR THE BENEFICIARY IS UNWILLING TO  
26 PAY A HIGHER COPAYMENT OR OTHER COST ASSOCIATED WITH THE PRESCRIBED  
27 DRUG.

28 (F) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL-FREE  
29 TELEPHONE NUMBER 24 HOURS A DAY, 7 DAYS A WEEK, FOR PRESCRIBERS,  
30 PHARMACY PROVIDERS, AND BENEFICIARIES.

31 15-1720.

32 (A) IF THE PHARMACY BENEFITS MANAGEMENT SERVICES PERFORMED BY A  
33 PHARMACY BENEFITS MANAGER FOR A PURCHASER INCLUDE NEGOTIATING OR  
34 ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS,  
35 BEFORE THE PHARMACY BENEFITS MANAGER MAY PROVIDE PHARMACY BENEFITS  
36 MANAGEMENT SERVICES FOR THE PURCHASER, THE PHARMACY BENEFITS  
37 MANAGER SHALL ENTER INTO ANY NECESSARY WRITTEN CONTRACTS WITH  
38 PHARMACY PROVIDERS.



1 (B) A WRITTEN CONTRACT SHALL REQUIRE THE PHARMACY BENEFITS  
2 MANAGER TO:

3 (1) DISCLOSE TO PHARMACY PROVIDERS:

4 (I) THE TERMS, CONDITIONS, FEES, BENEFIT DESIGNS, PROCESS,  
5 AND PROCEDURES FOR ACCESSING THE PHARMACY BENEFITS MANAGEMENT  
6 SERVICES PROVIDED BY THE PHARMACY BENEFITS MANAGER; AND

7 (II) THE PHARMACY BENEFITS MANAGER'S PROCEDURES FOR  
8 HANDLING DISPUTES;

9 (2) PROVIDE AT LEAST 30 DAYS' WRITTEN NOTICE TO PHARMACY  
10 PROVIDERS OF BENEFIT CHANGES, INCLUDING ADDITIONS OR DELETIONS TO  
11 COVERED PRESCRIPTION DRUGS, WITH THE EXCEPTION OF NEW DRUGS APPROVED  
12 BY THE U.S. FOOD AND DRUG ADMINISTRATION; AND

13 (3) STIPULATE THAT PHARMACY PROVIDERS WILL NOT BE REQUIRED TO  
14 AGREE TO EXTRAPOLATION AUDITS AS A CONDITION OF ENTERING INTO THE  
15 CONTRACT OR PARTICIPATING IN THE PHARMACY BENEFITS MANAGER'S NETWORK.  
16 15-1721.

17 A PHARMACY BENEFITS MANAGER:

18 (1) SHALL ALLOW A BENEFICIARY TO OBTAIN COVERED PHARMACY  
19 SERVICES FROM THE PHARMACY PROVIDER OF THE BENEFICIARY'S CHOICE WITHIN  
20 THE PHARMACY BENEFITS MANAGER'S NETWORK;

21 (2) SHALL ALLOW A RETAIL OR INSTITUTIONAL PHARMACY THAT CAN  
22 MEET THE SAME TERMS AND CONDITIONS AS A MAIL ORDER PHARMACY TO PROVIDE  
23 THE SAME SERVICES PROVIDED BY A MAIL ORDER PHARMACY; AND

24 (3) MAY NOT:

25 (I) REQUIRE A BENEFICIARY TO OBTAIN PHARMACY SERVICES  
26 FROM A MAIL ORDER PHARMACY, IF A RETAIL OR INSTITUTIONAL PHARMACY CAN  
27 MEET THE SAME TERMS AND CONDITIONS AS A MAIL ORDER PHARMACY;

28 (II) USE ANY FINANCIAL OR OTHER DISINCENTIVES, PENALTIES,  
29 OR OTHER MEANS TO INFLUENCE, COERCE, OR STEER BENEFICIARIES AWAY FROM A  
30 RETAIL OR INSTITUTIONAL PHARMACY THAT CAN MEET THE SAME TERMS AND  
31 CONDITIONS AS A MAIL ORDER PHARMACY; OR

32 (III) LIMIT THE QUANTITY OF DRUGS THAT A BENEFICIARY MAY  
33 OBTAIN AT ANY ONE TIME FROM ANY TYPE OF PHARMACY PROVIDER, UNLESS THE  
34 LIMIT IS APPLIED UNIFORMLY TO ALL PHARMACY PROVIDERS THAT ARE WITHIN THE  
35 PHARMACY BENEFITS MANAGER'S NETWORK, UNDER CONTRACT, OR OTHERWISE  
36 AUTHORIZED TO PROVIDE PHARMACY SERVICES TO BENEFICIARIES.

1 15-1722.

2 ALL DISCLOSURES MADE UNDER THIS SUBTITLE SHALL COMPLY WITH THE  
3 PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND  
4 ACCOUNTABILITY ACT.

5 15-1723.

6 IN ADDITION TO THE PENALTIES AUTHORIZED BY § 15-1706 OF THIS SUBTITLE,  
7 THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 AGAINST  
8 ANY PERSON THAT VIOLATES THIS SUBTITLE.

9 **Article - Health Occupations**

10 12-101.

11 (k) (1) "Nonresident pharmacy" means a pharmacy located outside this  
12 State that, in the normal course of business, as determined by the Board, ships, mails,  
13 or delivers drugs or devices to a person in this State pursuant to a prescription.

14 (2) "NONRESIDENT PHARMACY" INCLUDES A PHARMACY BENEFITS  
15 MANAGER, LOCATED WITHIN OR OUTSIDE THIS STATE, THAT IS REGULATED UNDER  
16 TITLE 15, SUBTITLE 17 OF THE INSURANCE ARTICLE, IF THE PHARMACY BENEFITS  
17 MANAGER SHIPS, MAILS, OR DELIVERS DRUGS OR DEVICES TO A PERSON IN THIS  
18 STATE PURSUANT TO A PRESCRIPTION.

19 12-403.

20 (a) This section does not require a nonresident pharmacy to violate the laws or  
21 regulations of the state in which it is located.

22 (b) Except as otherwise provided in this section, a pharmacy for which a  
23 pharmacy permit has been issued under this title:

24 (17) With regard to a prescription drug that is delivered in this State by  
25 the United States mail, a common carrier, or a delivery service and is not personally  
26 hand delivered directly to a patient or to the agent of the patient at the residence of  
27 the patient or at another location designated by the patient, shall:

28 (i) Provide a general written notice in each shipment of a  
29 prescription drug that alerts a consumer that, under certain circumstances, a  
30 medication's effectiveness may be affected by exposure to extremes of heat, cold, or  
31 humidity; and

32 (ii) Provide a specific written notice in each shipment of a  
33 prescription drug that provides a consumer with a toll-free or local consumer access  
34 telephone number accessible during regular hours of operation, which is designed to  
35 respond to consumer questions pertaining to medications; and

1 (d) A nonresident pharmacy shall hold a pharmacy permit issued by the  
2 Board.

3 (e) (1) In order to obtain a pharmacy permit from the Board, a nonresident  
4 pharmacy, TO THE EXTENT APPLICABLE, shall:

5 (i) Submit an application to the Board on the form that the Board  
6 requires;

7 (ii) Pay to the Board an application fee set by the Board;

8 (iii) Submit a copy of the most recent inspection report resulting  
9 from an inspection conducted by the regulatory or licensing agency of the state in  
10 which the nonresident pharmacy is located; and

11 (iv) On the required permit application, identify the name and  
12 current address of an agent located in this State officially designated to accept service  
13 of process.

14 (2) A nonresident pharmacy shall report a change in the name or address  
15 of the resident agent in writing to the Board 30 days prior to the change.

16 (f) A nonresident pharmacy, TO THE EXTENT APPLICABLE, shall:

17 (1) Comply with the laws of the state in which it is located;

18 (2) On an annual basis and within 30 days after a change of office,  
19 corporate officer, or pharmacist, disclose to the Board the location, names, and titles  
20 of all principal corporate officers and all pharmacists who are dispensing  
21 prescriptions for drugs or devices to persons in this State;

22 (3) Comply with all lawful directions and requests for information from  
23 the regulatory or licensing agency of the state in which it is located and all requests  
24 for information made by the Board pursuant to this section;

25 (4) Maintain at all times a valid, unexpired permit to conduct a  
26 pharmacy in compliance with the laws of the state in which it is located;

27 (5) Maintain its records of prescription drugs or devices dispensed to  
28 patients in this State so that the records are readily retrievable;

29 (6) During its regular hours of operation, but not less than 6 days a  
30 week, and for a minimum of 40 hours per week, provide toll-free telephone service to  
31 facilitate communication between patients in this State and a pharmacist who has  
32 access to the patient's prescription records;

33 (7) Disclose its toll-free telephone number on a label affixed to each  
34 container of drugs or devices;

1           (8)     Comply with the laws of this State relating to the confidentiality of  
2 prescription records if there are no laws relating to the confidentiality of prescription  
3 records in the state in which the nonresident pharmacy is located; [and]

4           (9)     Comply with the requirements of subsection (b)(17) of this section;  
5 AND

6           (10)    REQUIRE EACH EMPLOYEE OR CONTRACTOR TO BE LICENSED TO  
7 PRACTICE PHARMACY IF THE EMPLOYEE OR CONTRACTOR PRACTICES PHARMACY  
8 FOR OR ON BEHALF OF THE NONRESIDENT PHARMACY.

9       (g)     Subject to the hearing provisions of § 12-411 of this title, if a pharmacy or  
10 a nonresident pharmacy is operated in violation of this section, the Board may  
11 suspend the applicable pharmacy permit until the pharmacy complies with this  
12 section.

13       SECTION 2. AND BE IT FURTHER ENACTED, That a person acting as a  
14 pharmacy benefits manager in the State on the effective date of this Act may continue  
15 to act as a pharmacy benefits manager in the State without being registered with the  
16 Maryland Insurance Commissioner, as required under Section 1 of this Act, if the  
17 person:

18           (1)     registers with the Commissioner on or before September 1, 2007; and

19           (2)     complies with all other applicable provisions of this Act.

20       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2006.