

# SENATE BILL 677

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71r2935  
CF 71r0842

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By: **Senators Klausmeier, Della, and Edwards**  
Introduced and read first time: February 2, 2007  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers Regulation Act**

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  
8 insured or certificate holder to obtain pharmaceutical benefits from the  
9 pharmacy or pharmacist of the insured or certificate holder's choice, within any  
10 pharmacy network; exempting certain managed care organizations, insurers,  
11 nonprofit health service plans, and health maintenance organizations, and  
12 affiliates, subsidiaries, or other related entities of certain insurers, nonprofit  
13 health service plans, and health maintenance organizations from certain  
14 provisions of this Act, under certain circumstances; requiring a person to  
15 register with the Maryland Insurance Commissioner before the person acts as  
16 or represents itself as a pharmacy benefits manager in the State; requiring an  
17 applicant for registration to file an application on a certain form and pay to the  
18 Commissioner a certain fee; requiring the Commissioner to register certain  
19 applicants; providing for the expiration and renewal of a registration;  
20 prohibiting a pharmacy benefits manager from taking certain actions;  
21 authorizing the Commissioner to deny, suspend, or revoke a registration or  
22 refuse to renew a registration under certain circumstances and subject to  
23 certain hearing provisions; authorizing the Commissioner, if a registration is  
24 suspended or revoked, to permit the continued operation of a pharmacy benefits  
25 manager for a certain period of time and under certain circumstances; requiring  
26 a pharmacy benefits manager to register as a third party administrator or a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 private review agent under certain circumstances; requiring a certain pharmacy  
2 benefits manager to pay and adjust claims according to certain statutory  
3 requirements; prohibiting an insurer, nonprofit health service plan, or health  
4 maintenance organization from entering into an agreement with a pharmacy  
5 benefits manager that has not registered with the Commissioner; requiring the  
6 Commissioner to conduct a certain examination in accordance with certain  
7 provisions of law; requiring a pharmacy benefits manager to maintain certain  
8 books and records for a certain period and in accordance with certain standards;  
9 requiring the Commissioner to adopt certain regulations on or before a certain  
10 date; requiring a pharmacy benefits manager to disclose in writing certain  
11 information to a prospective purchaser and a purchaser; specifying the manner  
12 in which certain disclosures must be provided; providing that a pharmacy  
13 benefits manager need not make certain disclosures unless and until the  
14 prospective purchaser or the purchaser agrees in writing to maintain certain  
15 information as confidential; providing that certain agreements may include  
16 certain remedies and certain persons; requiring a contract executed by a  
17 pharmacy benefits manager for the provision of pharmacy benefits management  
18 services to include certain items; establishing certain requirements for members  
19 of a pharmacy and therapeutics committee; prohibiting a pharmacy benefits  
20 manager from substituting one prescription drug for the drug originally  
21 prescribed unless certain conditions are met; requiring a pharmacy benefits  
22 manager to disclose certain information to a purchaser if a drug substitution is  
23 made; requiring a pharmacy benefits manager to obtain a certain authorization  
24 to make a drug substitution and to make certain disclosures to a prescriber;  
25 providing for certain exceptions; prohibiting a pharmacy benefits manager from  
26 substituting a drug for a currently prescribed drug unless the pharmacy  
27 benefits manager provides a beneficiary or the beneficiary's representative with  
28 certain information; requiring a pharmacy benefits manager to maintain a  
29 certain toll-free telephone number; requiring a pharmacy benefits manager to  
30 enter into certain contracts with pharmacy providers under certain  
31 circumstances; specifying certain requirements of the contracts; specifying  
32 provisions that apply to audits carried out by pharmacy benefits managers of  
33 pharmacies or pharmacy claims; requiring a pharmacy benefits manager to  
34 allow a beneficiary to obtain covered pharmacy services from a certain  
35 pharmacy provider and allow a certain pharmacy that can meet certain  
36 conditions to provide certain services; requiring certain disclosures to comply  
37 with certain privacy standards; providing certain penalties; altering the  
38 definition of a "nonresident pharmacy" to include a pharmacy benefits manager  
39 under certain provisions of law; requiring a nonresident pharmacy to meet  
40 certain requirements; making certain provisions of law applicable to health  
41 maintenance organizations; allowing a certain person to continue to act as a  
42 pharmacy benefits manager without registering with the Commissioner under

1 certain circumstances; defining certain terms; and generally relating to  
2 regulation of pharmacy benefits managers.

3 BY repealing and reenacting, with amendments,  
4 Article – Insurance  
5 Section 15–805  
6 Annotated Code of Maryland  
7 (2006 Replacement Volume and 2006 Supplement)

8 BY adding to  
9 Article – Insurance  
10 Section 15–1601 through 15–1623 to be under the new subtitle “Subtitle 16.  
11 Pharmacy Benefits Managers”  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume and 2006 Supplement)

14 BY adding to  
15 Article – Health – General  
16 Section 19–706(jjj)  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2006 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Health Occupations  
21 Section 12–101(m) and 12–403(e) and (f)  
22 Annotated Code of Maryland  
23 (2005 Replacement Volume and 2006 Supplement)

24 BY repealing and reenacting, without amendments,  
25 Article – Health Occupations  
26 Section 12–403(a), (b)(17), (d), and (g)  
27 Annotated Code of Maryland  
28 (2005 Replacement Volume and 2006 Supplement)

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

31 **Article – Insurance**

32 15–805.

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

1           (2) “Authorized prescriber” means a licensed dentist, licensed  
2 physician, or licensed podiatrist who is authorized under the Health Occupations  
3 Article to prescribe a pharmaceutical product.

4           (3) “Pharmaceutical product” means a drug or medicine that may be  
5 prescribed by an authorized prescriber.

6           **(4) “PHARMACY BENEFITS MANAGER” HAS THE MEANING STATED**  
7 **IN § 15-1601 OF THIS TITLE.**

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

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

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

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

17           (2) A policy [or], contract, **OR PHARMACY BENEFITS MANAGER**  
18 subject to this subsection that provides reimbursement for a pharmaceutical product  
19 prescribed by an authorized prescriber may not establish the amount of  
20 reimbursement to the insured or the insured’s beneficiary, including copayments and  
21 deductibles, based on the identity, practicing specialty, or occupation of the authorized  
22 prescriber.

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

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

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

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

7           **(E) (1) THIS SUBSECTION APPLIES TO:**

8                   **(I) EACH INDIVIDUAL OR GROUP POLICY OR CONTRACT**  
9 **THAT IS ISSUED OR DELIVERED IN THE STATE TO AN EMPLOYER OR INDIVIDUAL**  
10 **BY AN INSURER AND THAT PROVIDES BENEFITS FOR PHARMACEUTICAL**  
11 **PRODUCTS; AND**

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

15           (2) A POLICY, CONTRACT, OR PHARMACY BENEFITS MANAGER  
16 SUBJECT TO THIS SUBSECTION SHALL ALLOW AN INSURED OR CERTIFICATE  
17 HOLDER TO SELECT THE PHARMACY OR PHARMACIST OF THE INSURED OR  
18 CERTIFICATE HOLDER'S CHOICE FOR PHARMACEUTICAL BENEFITS, WITHIN ANY  
19 PHARMACY NETWORK ESTABLISHED UNDER OR BY THE POLICY, CONTRACT, OR  
20 PHARMACY BENEFITS MANAGER.

21                   **SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

22           **15-1601.**

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

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

28           **(C) "EXTRAPOLATION AUDIT" MEANS AN AUDIT OF A SAMPLE OF**  
29 **PRESCRIPTION DRUG BENEFIT CLAIMS SUBMITTED BY A PHARMACY PROVIDER**  
30 **TO A PHARMACY BENEFITS MANAGER OR ITS DESIGNATED CONTRACTOR OR**

1 AGENT THAT IS USED TO ESTIMATE AUDIT RESULTS FOR A LARGER BATCH OR  
2 GROUP OF CLAIMS.

3 (D) "LABELER" MEANS A PERSON THAT:

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

6 (2) HAS A LABELER CODE FROM THE U.S. FOOD AND DRUG  
7 ADMINISTRATION UNDER 21 CFR § 207.20.

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

10 (2) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:

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

13 (II) PROCESSING OF PRESCRIPTION DRUG CLAIMS;

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

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

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

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

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

24 (I) (1) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN  
25 AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF  
26 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**  
5 **§ 15-10B-01 OF 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 **15-1602.**

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

14           **(B) THE PROVISIONS OF §§ 15-1603 THROUGH 15-1617 OF THIS**  
15 **SUBTITLE DO NOT APPLY TO AN INSURER, NONPROFIT HEALTH SERVICE PLAN,**  
16 **OR HEALTH MAINTENANCE ORGANIZATION, OR AN AFFILIATE, SUBSIDIARY, OR**  
17 **OTHER RELATED ENTITY OF AN INSURER, NONPROFIT HEALTH SERVICE PLAN,**  
18 **OR HEALTH MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF**  
19 **AS A PHARMACY BENEFITS MANAGER IF:**

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

25                   **(2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE**  
26 **OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSURED**  
27 **WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE**

1 INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE  
2 ORGANIZATION.

3 **15-1603.**

4 (A) A PERSON SHALL REGISTER WITH THE COMMISSIONER BEFORE THE  
5 PERSON ACTS AS OR REPRESENTS ITSELF AS A PHARMACY BENEFITS MANAGER  
6 IN THE STATE.

7 (B) AN APPLICANT FOR REGISTRATION SHALL:

8 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE  
9 FORM THAT THE COMMISSIONER PROVIDES; AND

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

12 (C) THE COMMISSIONER SHALL REGISTER EACH APPLICANT THAT  
13 MEETS THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY  
14 REGULATION.

15 **15-1604.**

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

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

20 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

21 (2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION  
22 ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

23 (3) PAYS TO THE COMMISSIONER A RENEWAL FEE SET BY THE  
24 COMMISSIONER.



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

4 **15-1605.**

5           **A PHARMACY BENEFITS MANAGER MAY NOT:**

6                   (1) VIOLATE ANY PROVISION OF THIS ARTICLE APPLICABLE TO  
7 THE PHARMACY BENEFITS MANAGER;

8                   (2) VIOLATE ANY REGULATION ADOPTED UNDER THIS ARTICLE  
9 APPLICABLE TO THE PHARMACY BENEFITS MANAGER;

10                  (3) KNOWINGLY FAIL TO COMPLY WITH AN ORDER OF THE  
11 COMMISSIONER;

12                  (4) OBTAIN OR ATTEMPT TO OBTAIN A REGISTRATION BASED ON  
13 INACCURATE INFORMATION;

14                  (5) FRAUDULENTLY OR DECEPTIVELY OBTAIN OR USE A  
15 REGISTRATION;

16                  (6) FAIL TO PROTECT THE CONFIDENTIALITY OF MEDICAL  
17 RECORDS IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS; OR

18                  (7) ACT AS A PHARMACY BENEFITS MANAGER WITHOUT FIRST  
19 REGISTERING WITH THE COMMISSIONER.

20 **15-1606.**

21           (A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS  
22 ARTICLE, THE COMMISSIONER MAY DENY, SUSPEND, OR REVOKE A  
23 REGISTRATION OR REFUSE TO RENEW A REGISTRATION IF THE APPLICANT OR  
24 REGISTRANT VIOLATES ANY PROVISION OF § 15-1605 OF THIS SUBTITLE.

25           (B) IF THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IS  
26 SUSPENDED OR REVOKED, THE COMMISSIONER, TO PROTECT THE INTERESTS  
27 OF BENEFICIARIES AND PHARMACY PROVIDERS, MAY PERMIT THE CONTINUED

1 OPERATION OF THE PHARMACY BENEFITS MANAGER FOR A LIMITED PERIOD,  
2 NOT TO EXCEED 60 DAYS, UNDER CONDITIONS AND RESTRICTIONS DETERMINED  
3 BY THE COMMISSIONER.

4 **15-1607.**

5 (A) A PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE  
6 COMMISSIONER AS A THIRD PARTY ADMINISTRATOR UNDER TITLE 8, SUBTITLE  
7 3 OF THIS ARTICLE IF THE PHARMACY BENEFITS MANAGER:

8 (1) PROCESSES PRESCRIPTION DRUG CLAIMS; OR

9 (2) ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG  
10 CLAIMS.

11 (B) A PHARMACY BENEFITS MANAGER THAT PROCESSES PRESCRIPTION  
12 DRUG CLAIMS OR ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG  
13 CLAIMS SHALL:

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

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

18 **15-1608.**

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

22 **15-1609.**

23 AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
24 MAINTENANCE ORGANIZATION MAY NOT ENTER INTO AN AGREEMENT WITH A  
25 PHARMACY BENEFITS MANAGER THAT HAS NOT REGISTERED WITH THE  
26 COMMISSIONER.

27 **15-1610.**

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

4           (B)   THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH §  
5   2-207 OF THIS ARTICLE.

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

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

10   **15-1611.**

11           A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS  
12   AND RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS  
13   MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES:

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

16           (2)   FOR THE DURATION OF THE AGREEMENT BETWEEN THE  
17   PHARMACY BENEFITS MANAGER AND THE PURCHASER; AND

18           (3)   FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER  
19   CEASES TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES TO THE  
20   PURCHASER.

21   **15-1612.**

22           ON OR BEFORE APRIL 1, 2008, THE COMMISSIONER SHALL ADOPT  
23   REGULATIONS TO IMPLEMENT THIS SUBTITLE.

24   **15-1613.**

25           (A)   A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A  
26   PROSPECTIVE PURCHASER IN WRITING:

1           **(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES,**  
2 **DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE**  
3 **DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD**  
4 **RECEIVE, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL**  
5 **MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG**  
6 **BENEFITS SPECIFIC TO THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE**  
7 **PURCHASER WERE TO CONTRACT WITH THE PHARMACY BENEFITS MANAGER;**

8           **(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE**  
9 **THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE,**  
10 **DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR**  
11 **LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO**  
12 **THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO**  
13 **CONTRACT WITH THE PHARMACY BENEFITS MANAGER;**

14           **(3) ANY ADMINISTRATIVE OR OTHER FEES THAT WOULD BE**  
15 **CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PROSPECTIVE**  
16 **PURCHASER;**

17           **(4) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS,**  
18 **MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY**  
19 **PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF**  
20 **THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE**  
21 **OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS; AND**

22           **(5) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS**  
23 **MANAGER, DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR**  
24 **DIFFERENT NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON**  
25 **THE LIST:**

26                   **(I) THE DRUG NAME AND STRENGTH;**

27                   **(II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND**  
28 **THE NEW NATIONAL DRUG CODE NUMBER; AND**

29                   **(III) THE ORIGINAL PRICE AND THE NEW PRICE.**

30           **(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS**  
31 **SECTION SHALL BE PROVIDED:**

1           **(1) IN THE AGGREGATE;**

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

4           **(3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH**  
5 **THERAPEUTIC CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.**

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

7 **15-1614.**

8           **(A) AT LEAST QUARTERLY, A PHARMACY BENEFITS MANAGER SHALL**  
9 **DISCLOSE TO A PURCHASER IN WRITING:**

10           **(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES,**  
11 **DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE**  
12 **DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR**  
13 **INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN**  
14 **CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE**  
15 **PURCHASER;**

16           **(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE**  
17 **THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR**  
18 **INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN**  
19 **CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE**  
20 **PURCHASER;**

21           **(3) ANY PRESCRIPTION DRUG UTILIZATION INFORMATION**  
22 **RELATED TO UTILIZATION BY THE PURCHASER'S BENEFICIARIES OR**  
23 **AGGREGATE UTILIZATION DATA THAT IS NOT SPECIFIC TO AN INDIVIDUAL**  
24 **BENEFICIARY, PRESCRIBER, OR PURCHASER;**

25           **(4) ANY ADMINISTRATIVE OR OTHER FEES CHARGED BY THE**  
26 **PHARMACY BENEFITS MANAGER TO THE PURCHASER;**

27           **(5) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS,**  
28 **MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY**

1 PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF  
2 THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE  
3 OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS;

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

8 (I) THE DRUG NAME AND STRENGTH;

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

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

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

16 (I) THE PRESCRIPTION NUMBER;

17 (II) THE DATE THE PRESCRIPTION WAS PROCESSED BY THE  
18 PHARMACY BENEFITS MANAGER;

19 (III) THE NATIONAL DRUG CODE NUMBER;

20 (IV) THE BENEFICIARY'S NAME; AND

21 (V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE  
22 AMOUNT BILLED TO THE PURCHASER.

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

25 (1) IN THE AGGREGATE;

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

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

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

6 **15-1615.**

7           **(A) EXCEPT FOR UTILIZATION INFORMATION, AND EXCEPT AS**  
8 **PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PHARMACY BENEFITS**  
9 **MANAGER NEED NOT MAKE THE DISCLOSURES REQUIRED UNDER §§ 15-1613**  
10 **AND 15-1614 OF THIS SUBTITLE UNLESS AND UNTIL THE PROSPECTIVE**  
11 **PURCHASER OR THE PURCHASER AGREES IN WRITING TO MAINTAIN AS**  
12 **CONFIDENTIAL ANY PROPRIETARY INFORMATION DISCLOSED BY THE**  
13 **PHARMACY BENEFITS MANAGER.**

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

15           **(1) PROVIDE FOR EQUITABLE AND LEGAL REMEDIES IN THE**  
16 **EVENT OF A VIOLATION OF THE AGREEMENT; AND**

17           **(2) INCLUDE PERSONS WITH WHICH THE PROSPECTIVE**  
18 **PURCHASER OR PURCHASER CONTRACTS TO PROVIDE CONSULTING SERVICES**  
19 **RELATING TO PHARMACY BENEFITS MANAGEMENT SERVICES.**

20           **(C) PROPRIETARY INFORMATION INCLUDES:**

21           **(1) TRADE SECRETS; AND**

22           **(2) INFORMATION ABOUT PRICING, COSTS, REVENUES, TAXES,**  
23 **MARKET SHARE, NEGOTIATING STRATEGIES, CUSTOMERS, AND PERSONNEL**  
24 **HELD BY A PHARMACY BENEFITS MANAGER AND USED FOR ITS BUSINESS**  
25 **PURPOSES.**

26           **(D) THIS SECTION DOES NOT DIMINISH THE AUTHORITY OF THE OFFICE**  
27 **OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION**  
28 **AND USE THE INFORMATION IN ANY PROCEEDING.**

1 **15-1616.**

2 **A CONTRACT EXECUTED BY A PHARMACY BENEFITS MANAGER FOR THE**  
3 **PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES SHALL INCLUDE:**

4 **(1) THE AMOUNT OF THE TOTAL REVENUES, REBATES, AND**  
5 **DISCOUNTS IDENTIFIED IN §§ 15-1613 AND 15-1614 OF THIS SUBTITLE THAT**  
6 **WILL BE PASSED ON TO THE PURCHASER;**

7 **(2) THE MAXIMUM ALLOWABLE COST AND AVERAGE WHOLESALE**  
8 **PRICE RESOURCES USED TO DETERMINE THE PRICE PAID TO A PHARMACY AND**  
9 **BILLED TO THE PURCHASER;**

10 **(3) THE CONDITIONS UNDER WHICH BENEFICIARY UTILIZATION**  
11 **DATA MAY BE DISCLOSED OR SOLD BY THE PHARMACY BENEFITS MANAGER TO**  
12 **ANY PERSON OTHER THAN THE PURCHASER;**

13 **(4) ANY ADMINISTRATIVE OR OTHER FEES:**

14 **(I) CHARGED BY THE PHARMACY BENEFITS MANAGER TO**  
15 **THE PURCHASER; OR**

16 **(II) COLLECTED BY THE PHARMACY BENEFITS MANAGER ON**  
17 **BEHALF OF THE PURCHASER;**

18 **(5) (I) THE CONDITIONS UNDER WHICH AN AUDIT WILL BE**  
19 **CONDUCTED OF THE CONTRACT FOR PHARMACY BENEFITS MANAGEMENT**  
20 **SERVICES;**

21 **(II) WHO WILL CONDUCT THE AUDIT; AND**

22 **(III) WHO WILL PAY FOR THE AUDIT;**

23 **(6) ANY REVENUES, REBATES, OR DISCOUNTS RECEIVED,**  
24 **DIRECTLY OR INDIRECTLY, BY THE PHARMACY BENEFITS MANAGER FROM**  
25 **PERSONS OTHER THAN PHARMACEUTICAL MANUFACTURERS AND LABELERS**  
26 **THAT ARE SPECIFIC TO THE PHARMACY BENEFITS MANAGEMENT SERVICES TO**  
27 **BE PROVIDED TO THE PURCHASER;**



1           **(7) THE PROCESS FOR THE DEVELOPMENT OF FORMULARIES,**  
2 **NOTIFICATION OF CHANGES TO FORMULARIES, AND APPROVAL OF CHANGES BY**  
3 **THE PURCHASER; AND**

4           **(8) AN AGREEMENT TO PROVIDE TO THE PURCHASER A LIST OF**  
5 **PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE**  
6 **PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WILL BE OR WAS BILLED**  
7 **TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:**

8                   **(I) THE PRESCRIPTION NUMBER;**

9                   **(II) THE DATE THE PRESCRIPTION DRUG WAS PROCESSED**  
10 **BY THE PHARMACY BENEFITS MANAGER;**

11                   **(III) THE NATIONAL DRUG CODE NUMBER;**

12                   **(IV) THE BENEFICIARY'S NAME; AND**

13                   **(V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE**  
14 **AMOUNT BILLED TO THE PURCHASER.**

15 **15-1617.**

16           **(A) (1) EACH MEMBER OF A PHARMACY AND THERAPEUTICS**  
17 **COMMITTEE FOR A PHARMACY BENEFITS MANAGER SHALL BE:**

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

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

21           **(2) A MAJORITY OF COMMITTEE MEMBERS MAY NOT BE**  
22 **EMPLOYED BY THE PHARMACY BENEFITS MANAGER.**

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

24                   **(1) BE AN OFFICER, EMPLOYEE, DIRECTOR, OR AGENT OF A**  
25 **PHARMACEUTICAL MANUFACTURER; OR**

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

5 **15-1618.**

6           **(A) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER**  
7 **PRESCRIPTION DRUG FOR THE CURRENTLY PRESCRIBED PRESCRIPTION DRUG**  
8 **UNLESS:**

9           **(1) THE SUBSTITUTION IS MADE FOR MEDICAL REASONS THAT**  
10 **BENEFIT THE BENEFICIARY; OR**

11           **(2) THE SUBSTITUTION RESULTS IN FINANCIAL SAVINGS AND**  
12 **BENEFITS TO THE PURCHASER.**

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

18           **(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A**  
19 **PHARMACY BENEFITS MANAGER SHALL:**

20           **(1) OBTAIN AUTHORIZATION FROM A PRESCRIBER TO**  
21 **SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED**  
22 **PRESCRIPTION DRUG; AND**

23           **(2) DISCLOSE TO THE PRESCRIBER:**

24           **(I) THE COST SAVINGS FOR THE PURCHASER, IF ANY, THAT**  
25 **RESULT FROM THE DRUG SUBSTITUTION;**

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

1                   (III) THE EXISTENCE OF ADDITIONAL PAYMENTS RECEIVED  
2 BY THE PHARMACY BENEFITS MANAGER THAT ARE NOT REFLECTED IN THE  
3 COST SAVINGS TO THE PURCHASER;

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

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

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

11           (D) IF AUTHORIZATION IS GIVEN VERBALLY, A PHARMACY BENEFITS  
12 MANAGER SHALL RECORD THE NAME AND TITLE OF THE PRESCRIBER  
13 AUTHORIZING THE PRESCRIPTION DRUG SUBSTITUTION.

14           (E) A PHARMACY BENEFITS MANAGER MAY MAKE A PRESCRIPTION  
15 DRUG SUBSTITUTION WITHOUT OBTAINING AUTHORIZATION FROM A  
16 PRESCRIBER OR MAKING THE DISCLOSURES REQUIRED UNDER SUBSECTION (C)  
17 OF THIS SECTION IF:

18                   (1) THE SUBSTITUTION IS FROM A BRAND NAME DRUG TO A  
19 GENERIC DRUG, AND THE SUBSTITUTION IS MADE IN ACCORDANCE WITH  
20 § 12-504 OF THE HEALTH OCCUPATIONS ARTICLE;

21                   (2) THE CURRENTLY PRESCRIBED DRUG IS NO LONGER  
22 AVAILABLE IN THE MARKET; OR

23                   (3) THE SUBSTITUTION IS REQUIRED FOR COVERAGE REASONS  
24 BECAUSE THE PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S  
25 FORMULARY OR PLAN.

26           (F) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER  
27 PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG  
28 UNLESS THE PHARMACY BENEFITS MANAGER PROVIDES THE BENEFICIARY OR  
29 THE BENEFICIARY'S REPRESENTATIVE THE FOLLOWING:

1           **(1) UNLESS THE SUBSTITUTION WAS EXEMPTED UNDER**  
2 **SUBSECTION (E) OF THIS SECTION, A NOTIFICATION THAT:**

3                   **(I) THE PHARMACY BENEFITS MANAGER REQUESTED A**  
4 **DRUG SUBSTITUTION BY CONTACTING THE BENEFICIARY'S PRESCRIBER; AND**

5                   **(II) THE PRESCRIBER APPROVED THE DRUG SUBSTITUTION;**

6           **(2) THE NAMES OF THE PROPOSED DRUG SUBSTITUTION AND THE**  
7 **CURRENTLY PRESCRIBED DRUG;**

8           **(3) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER**  
9 **OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE**  
10 **SUBSTITUTE DRUG;**

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

13           **(5) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE**  
14 **CURRENTLY PRESCRIBED DRUG WILL BE COVERED;**

15           **(6) THE CIRCUMSTANCES, IF ANY, AND THE EXTENT TO WHICH**  
16 **HEALTH CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE**  
17 **COMPENSATED;**

18           **(7) A NOTIFICATION THAT THE BENEFICIARY MAY DECLINE THE**  
19 **DRUG SUBSTITUTION IF THE CURRENTLY PRESCRIBED DRUG REMAINS ON THE**  
20 **BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY**  
21 **DIFFERENCE IN THE COPAYMENT AMOUNT; AND**

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

24           **(G) (1) A PHARMACY BENEFITS MANAGER SHALL CANCEL AND**  
25 **REVERSE A PRESCRIPTION DRUG SUBSTITUTION ON WRITTEN OR VERBAL**  
26 **INSTRUCTIONS FROM A PRESCRIBER, THE BENEFICIARY, OR THE**  
27 **BENEFICIARY'S REPRESENTATIVE.**

1           **(2) IF A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S**  
2 **REPRESENTATIVE CANCELS AND REVERSES A DRUG SUBSTITUTION, THE**  
3 **PHARMACY BENEFITS MANAGER SHALL:**

4                   **(I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE**  
5 **CURRENTLY PRESCRIBED DRUG;**

6                   **(II) CHARGE THE BENEFICIARY ONLY ONE COPAYMENT; AND**

7                   **(III) IF A BENEFICIARY WILL EXHAUST THE SUPPLY OF THE**  
8 **CURRENTLY PRESCRIBED DRUG BEFORE A REPLACEMENT SHIPMENT WILL**  
9 **ARRIVE TO THE BENEFICIARY, ARRANGE FOR DISPENSING OF AN APPROPRIATE**  
10 **QUANTITY OF REPLACEMENT DRUGS AT A RETAIL OR INSTITUTIONAL**  
11 **PHARMACY AT NO ADDITIONAL COST TO THE BENEFICIARY.**

12           **(3) A PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO**  
13 **CANCEL AND REVERSE A DRUG SUBSTITUTION IF:**

14                   **(I) THE PRESCRIBED DRUG IS NO LONGER ON THE**  
15 **PURCHASER'S FORMULARY; OR**

16                   **(II) A BENEFICIARY IS UNWILLING TO PAY A HIGHER**  
17 **COPAYMENT OR OTHER COST ASSOCIATED WITH THE PRESCRIBED DRUG.**

18           **(H) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL-FREE**  
19 **TELEPHONE NUMBER 24 HOURS A DAY, 7 DAYS A WEEK, FOR PRESCRIBERS,**  
20 **PHARMACY PROVIDERS, AND BENEFICIARIES.**

21 **15-1619.**

22           **(A) IF THE PHARMACY BENEFITS MANAGEMENT SERVICES PERFORMED**  
23 **BY A PHARMACY BENEFITS MANAGER FOR A PURCHASER INCLUDE**  
24 **NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH**  
25 **PHARMACY PROVIDERS, BEFORE THE PHARMACY BENEFITS MANAGER MAY**  
26 **PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES FOR THE PURCHASER,**  
27 **THE PHARMACY BENEFITS MANAGER SHALL ENTER INTO ANY NECESSARY**  
28 **WRITTEN CONTRACTS WITH PHARMACY PROVIDERS.**

1           **(B) A CONTRACT WITH A PHARMACY PROVIDER SHALL REQUIRE THE**  
2 **PHARMACY BENEFITS MANAGER TO:**

3           **(1) DISCLOSE TO THE PHARMACY PROVIDER:**

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

8                   **(II) THE PHARMACY BENEFITS MANAGER'S PROCEDURES**  
9 **FOR HANDLING DISPUTES; AND**

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

14 **15-1620.**

15           **THE FOLLOWING PROVISIONS SHALL APPLY TO ANY AUDITS CARRIED OUT**  
16 **BY PHARMACY BENEFITS MANAGERS OF PHARMACIES OR CLAIMS FROM**  
17 **PHARMACIES:**

18           **(1) ONLY CLAIMS THAT HAVE BEEN REQUESTED FOR AUDITING**  
19 **MAY BE SUBJECT TO AN AUDIT;**

20           **(2) A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE**  
21 **EXTRAPOLATION AUDITS AS A CONDITION OF A CONTRACT OR PARTICIPATION**  
22 **IN A NETWORK OR PROGRAM OF THE PHARMACY BENEFITS MANAGER;**

23           **(3) A PHARMACY BENEFITS MANAGER MAY NOT RECOUP BY**  
24 **SETOFF ANY MONEYS THAT THE PHARMACY BENEFITS MANAGER CONTENDS**  
25 **ARE DUE AS A RESULT OF AN AUDIT UNTIL THE PHARMACY HAS THE**  
26 **OPPORTUNITY TO REVIEW AND CONCUR WITH THE AUDIT FINDINGS; AND**

27           **(4) IF THE PHARMACY BENEFITS MANAGER AND THE PHARMACY**  
28 **CANNOT AGREE ON THE MONEYS DUE AS A RESULT OF AN AUDIT, THE**

1 COMMISSIONER SHALL REVIEW THE AUDIT AND DETERMINE IF ANY MONEYS  
2 ARE DUE.

3 **15-1621.**

4 **A PHARMACY BENEFITS MANAGER:**

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

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

11 (3) MAY NOT:

12 (I) REQUIRE A BENEFICIARY TO OBTAIN PHARMACY  
13 SERVICES FROM A MAIL ORDER PHARMACY IF A RETAIL OR INSTITUTIONAL  
14 PHARMACY CAN MEET THE SAME TERMS AND CONDITIONS AS THE MAIL ORDER  
15 PHARMACY;

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

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

26 **15-1622.**

27 ALL DISCLOSURES MADE UNDER THIS SUBTITLE SHALL COMPLY WITH THE  
28 PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND  
29 ACCOUNTABILITY ACT.

1 **15-1623.**

2 **IN ADDITION TO THE PENALTIES AUTHORIZED BY § 15-1606 OF THIS**  
3 **SUBTITLE, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING**  
4 **\$10,000 AGAINST ANY PERSON THAT VIOLATES THIS SUBTITLE.**

5 **Article - Health - General**

6 19-706.

7 **(JJJ) THE PROVISIONS OF § 15-805 AND TITLE 15, SUBTITLE 16 OF THE**  
8 **INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

9 **Article - Health Occupations**

10 12-101.

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

19 12-403.

20 (a) This section does not require a nonresident pharmacy to violate the laws  
21 or 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:



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

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

9           (d) A nonresident pharmacy shall hold a pharmacy permit issued by the  
10 Board.

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

13                   (i) Submit an application to the Board on the form that the  
14 Board requires;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **AND**

19           **(10) REQUIRE EACH EMPLOYEE OR CONTRACTOR TO BE LICENSED**  
20 **TO PRACTICE PHARMACY IF THE EMPLOYEE OR CONTRACTOR PRACTICES**  
21 **PHARMACY FOR OR ON BEHALF OF THE NONRESIDENT PHARMACY.**

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

26           **SECTION 2. AND BE IT FURTHER ENACTED,** That a person acting as a  
27 pharmacy benefits manager in the State on the effective date of this Act may continue  
28 to act as a pharmacy benefits manager in the State without being registered with the  
29 Maryland Insurance Commissioner, as required under Section 1 of this Act, if the  
30 person:

31           (1) registers with the Commissioner on or before September 1, 2008;  
32 and

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

2                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
3     October 1, 2007.