

HOUSE BILL 978

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CF SB 915

By: **Delegate Kelly**

Introduced and read first time: February 5, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Insurance Administration – Pharmacy Services Administrative**
3 **Organizations – Regulation**

4 FOR the purpose of requiring, on or after a certain date, pharmacy services administrative
5 organizations to register with the Maryland Insurance Commissioner before
6 providing certain services in the State; requiring certain applicants to file an
7 application on a certain form and pay a certain fee; providing for the expiration and
8 renewal of a certain registration; prohibiting certain pharmacy services
9 administrative organizations from entering into certain contracts; authorizing the
10 Commissioner to deny, refuse to renew, suspend, or revoke a registration under
11 certain circumstances; requiring a pharmacy services administrative organization to
12 maintain certain books and records in a certain manner and for a certain time period;
13 authorizing the Commissioner to examine the affairs, transactions, accounts, and
14 records of a registered pharmacy services administrative organization; requiring
15 that the examination be conducted, the expense of the examination be paid, and the
16 reports be issued in accordance with certain laws; authorizing and requiring the
17 Commissioner to adopt certain regulations; prohibiting certain contracts and
18 amendments to certain contracts from becoming effective except under certain
19 circumstances; requiring a pharmacy services administrative contract to include a
20 certain provision requiring a pharmacy services administrative organization to
21 provide certain documents and information to a certain pharmacy within a certain
22 period of time; requiring a pharmacy services administrative organization to disclose
23 certain information concerning certain ownership or control to the Commissioner
24 and notify the Commissioner of certain changes in ownership or control within a
25 certain period of time; requiring a pharmacy services administrative organization to
26 provide certain disclosures before entering into certain contracts with certain
27 entities; requiring a pharmacy services administrative organization to provide notice
28 of certain changes in ownership or control to certain entities within a certain period
29 of time; requiring a certain contract that authorizes a pharmacy benefits manager to
30 conduct a certain audit of a pharmacy services administrative organization to
31 contain certain language that authorizes the pharmacy benefits manager to obtain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain information regarding certain pharmacies for certain purposes; requiring a
 2 pharmacy services administrative contract to require certain remittances to be
 3 passed from a pharmacy services administrative organization to a certain pharmacy
 4 within a certain period of time; requiring a pharmacy services administrative
 5 organization to submit a certain annual report to the Commissioner under certain
 6 circumstances; requiring the Commissioner to make certain reports available to the
 7 public; prohibiting a pharmacy services administrative organization from requiring
 8 a certain pharmacy to purchase certain drugs, biologics, or medical devices from a
 9 certain entity as a condition for entering into a pharmacy services administrative
 10 contract; requiring a pharmacy services administrative organization that owns or is
 11 owned by a certain entity to disclose to the Commissioner certain agreements;
 12 requiring certain disclosures to comply with certain privacy standards; requiring
 13 certain pharmacy services administrative organizations to establish certain policies
 14 and procedures; establishing certain prohibited acts; authorizing the Commissioner
 15 to issue certain cease and desist orders, take certain action, and impose certain
 16 penalties under certain circumstances; providing for the service of a certain order;
 17 providing that a request for a certain hearing does not stay a certain portion of a
 18 certain order; authorizing the Commissioner to file a certain petition in a certain
 19 court and to recover certain fees and costs under certain circumstances; providing
 20 that certain provisions of this Act do not limit certain regulatory authority; providing
 21 for the construction of this Act; defining certain terms; and generally relating to
 22 pharmacy services administrative organizations.

23 BY adding to

24 Article – Insurance

25 Section 15–2001 through 15–2021 to be under the new subtitle “Subtitle 20.
 26 Pharmacy Services Administrative Organizations”

27 Annotated Code of Maryland

28 (2017 Replacement Volume and 2019 Supplement)

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

31 **Article – Insurance**

32 **SUBTITLE 20. PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS.**

33 **15–2001.**

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

36 (B) “INDEPENDENT PHARMACY” MEANS A PHARMACY OPERATING WITHIN
 37 THE STATE THAT IS UNDER COMMON OWNERSHIP WITH NOT MORE THAN TWO
 38 OTHER PHARMACIES.

1 (IX) MARKETING SUPPORT;

2 (X) PAYMENT AND DRUG DISPENSING DATA MANAGEMENT AND
3 ANALYSIS; OR

4 (XI) PROVISION OF RESOURCES FOR RETAIL CASH CARDS.

5 (F) (1) "THIRD-PARTY PAYER" MEANS AN ENTITY OPERATING WITHIN
6 THE STATE THAT PAYS OR INSURES HEALTH, MEDICAL, OR PRESCRIPTION DRUG
7 EXPENSES ON BEHALF OF BENEFICIARIES.

8 (2) "THIRD-PARTY PAYER" INCLUDES A PLAN SPONSOR, A
9 NONPROFIT HEALTH SERVICE PLAN, A HEALTH MAINTENANCE ORGANIZATION, AND
10 AN INSURER.

11 (3) "THIRD-PARTY PAYER" DOES NOT INCLUDE A SELF-FUNDED
12 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA) PLAN AS
13 DESCRIBED IN 29 U.S.C. § 1144(B)(2)(B).

14 15-2002.

15 (A) ON OR AFTER JULY 1, 2021, A PHARMACY SERVICES ADMINISTRATIVE
16 ORGANIZATION SHALL REGISTER WITH THE COMMISSIONER AS A PHARMACY
17 SERVICES ADMINISTRATIVE ORGANIZATION BEFORE PROVIDING SERVICES AS A
18 PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION IN THE STATE TO
19 INDEPENDENT PHARMACIES.

20 (B) AN APPLICANT FOR REGISTRATION SHALL:

21 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM
22 THAT THE COMMISSIONER PROVIDES; AND

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

25 15-2003.

26 (A) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION
27 REGISTRATION EXPIRES ON THE SECOND SEPTEMBER 30 AFTER ITS EFFECTIVE
28 DATE UNLESS IT IS RENEWED AS PROVIDED UNDER THIS SECTION.

29 (B) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION MAY RENEW
30 ITS REGISTRATION FOR AN ADDITIONAL 2-YEAR TERM IF THE PHARMACY SERVICES

1 ADMINISTRATIVE ORGANIZATION:

2 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

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

5 (3) PAYS TO THE COMMISSIONER A RENEWAL FEE SET BY THE
6 COMMISSIONER.

7 15-2004.

8 A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT HAS NOT
9 REGISTERED WITH THE COMMISSIONER MAY NOT ENTER INTO AN AGREEMENT OR A
10 CONTRACT WITH AN INDEPENDENT PHARMACY OR A PHARMACY BENEFITS
11 MANAGER.

12 15-2005.

13 SUBJECT TO THE APPLICABLE HEARING PROVISIONS OF TITLE 2 OF THIS
14 ARTICLE, THE COMMISSIONER MAY DENY A REGISTRATION TO A PHARMACY
15 SERVICES ADMINISTRATIVE ORGANIZATION OR REFUSE TO RENEW, SUSPEND, OR
16 REVOKE THE REGISTRATION OF A PHARMACY SERVICES ADMINISTRATIVE
17 ORGANIZATION IF THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION, OR
18 AN OFFICER, A DIRECTOR, OR AN EMPLOYEE OF THE PHARMACY SERVICES
19 ADMINISTRATIVE ORGANIZATION:

20 (1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN
21 AN APPLICATION FOR REGISTRATION;

22 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
23 OBTAIN A REGISTRATION;

24 (3) IN CONNECTION WITH THE ADMINISTRATION OF PHARMACY
25 SERVICES ADMINISTRATIVE ORGANIZATION SERVICES, COMMITS FRAUD OR
26 ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES; OR

27 (4) VIOLATES THIS SUBTITLE OR A REGULATION ADOPTED UNDER
28 THIS SUBTITLE.

29 15-2006.

30 A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL MAINTAIN

1 ADEQUATE BOOKS AND RECORDS REGARDING EACH INDEPENDENT PHARMACY FOR
2 WHICH THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION PROVIDES
3 SERVICES AS A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION:

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

6 (2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE
7 PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION AND THE INDEPENDENT
8 PHARMACY; AND

9 (3) FOR 3 YEARS AFTER THE PHARMACY SERVICES ADMINISTRATIVE
10 ORGANIZATION CEASES TO PROVIDE SERVICES AS A PHARMACY SERVICES
11 ADMINISTRATIVE ORGANIZATION FOR THE INDEPENDENT PHARMACY.

12 15-2007.

13 (A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE
14 COMMISSIONER MAY EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, AND
15 RECORDS OF A REGISTERED PHARMACY SERVICES ADMINISTRATIVE
16 ORGANIZATION.

17 (B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH §
18 2-207 OF THIS ARTICLE.

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

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

23 15-2008.

24 THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS
25 SUBTITLE.

26 15-2009.

27 THIS SUBTITLE MAY NOT BE CONSTRUED TO DIMINISH THE AUTHORITY OF
28 THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN
29 INFORMATION RELATING TO A PHARMACY SERVICES ADMINISTRATIVE
30 ORGANIZATION AND USE THE INFORMATION IN ANY PROCEEDING.

1 15-2010.

2 (A) A PHARMACY SERVICES ADMINISTRATIVE CONTRACT OR AN
3 AMENDMENT TO A PHARMACY SERVICES ADMINISTRATIVE CONTRACT OR A
4 CONTRACT OR AN AMENDMENT TO A CONTRACT BETWEEN A PHARMACY SERVICES
5 ADMINISTRATIVE ORGANIZATION, ON BEHALF OF AN INDEPENDENT PHARMACY,
6 AND A PHARMACY BENEFITS MANAGER OR GROUP PURCHASING ORGANIZATION MAY
7 NOT BECOME EFFECTIVE UNLESS:

8 (1) AT LEAST 30 DAYS BEFORE THE CONTRACT OR AMENDMENT IS TO
9 BECOME EFFECTIVE, THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION
10 FILES THE CONTRACT OR AMENDMENT WITH THE COMMISSIONER IN THE FORM
11 REQUIRED BY THE COMMISSIONER; AND

12 (2) THE COMMISSIONER DOES NOT DISAPPROVE THE FILING WITHIN
13 30 DAYS AFTER THE CONTRACT OR AMENDMENT IS FILED.

14 (B) THE COMMISSIONER SHALL ADOPT REGULATIONS TO ESTABLISH THE
15 CIRCUMSTANCES UNDER WHICH THE COMMISSIONER MAY DISAPPROVE A
16 CONTRACT.

17 15-2011.

18 A PHARMACY SERVICES ADMINISTRATIVE CONTRACT SHALL INCLUDE A
19 PROVISION THAT REQUIRES THE PHARMACY SERVICES ADMINISTRATIVE
20 ORGANIZATION TO PROVIDE TO THE INDEPENDENT PHARMACY A COPY OF ANY
21 CONTRACTS, AMENDMENTS, PAYMENT SCHEDULES, OR REIMBURSEMENT RATES
22 WITHIN 3 CALENDAR DAYS AFTER THE EXECUTION OF A CONTRACT, OR AN
23 AMENDMENT TO A CONTRACT, SIGNED ON BEHALF OF THE INDEPENDENT
24 PHARMACY BY THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION.

25 15-2012.

26 (A) EACH PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL
27 DISCLOSE TO THE COMMISSIONER THE EXTENT OF ANY OWNERSHIP OR CONTROL
28 OF THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION BY ANY PARENT
29 COMPANY, SUBSIDIARY, OR OTHER ORGANIZATION THAT:

30 (1) PROVIDES PHARMACY SERVICES;

31 (2) PROVIDES PRESCRIPTION DRUG OR DEVICE SERVICES; OR

32 (3) MANUFACTURES, SELLS, OR DISTRIBUTES PRESCRIPTION DRUGS,

1 **BIOLOGICS, OR MEDICAL DEVICES.**

2 **(B) EACH PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL**
3 **NOTIFY THE COMMISSIONER IN WRITING WITHIN 5 CALENDAR DAYS AFTER ANY**
4 **MATERIAL CHANGE IN ITS OWNERSHIP OR CONTROL RELATING TO ANY COMPANY,**
5 **SUBSIDIARY, OR OTHER ORGANIZATION DESCRIBED UNDER SUBSECTION (A) OF**
6 **THIS SECTION.**

7 **15-2013.**

8 **(A) BEFORE ENTERING INTO A PHARMACY SERVICES ADMINISTRATIVE**
9 **CONTRACT, A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL**
10 **PROVIDE TO AN INDEPENDENT PHARMACY A WRITTEN DISCLOSURE OF OWNERSHIP**
11 **OR CONTROL.**

12 **(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
13 **SHALL INCLUDE THE EXTENT OF ANY OWNERSHIP OR CONTROL BY ANY PARENT**
14 **COMPANY, SUBSIDIARY, OR OTHER ORGANIZATION THAT:**

15 **(1) PROVIDES PHARMACY SERVICES;**

16 **(2) PROVIDES PRESCRIPTION DRUG OR DEVICE SERVICES; OR**

17 **(3) MANUFACTURES, SELLS, OR DISTRIBUTES PRESCRIPTION DRUGS,**
18 **BIOLOGICS, OR MEDICAL DEVICES.**

19 **(C) A PHARMACY SERVICES ADMINISTRATIVE CONTRACT SHALL REQUIRE A**
20 **PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION TO NOTIFY AN**
21 **INDEPENDENT PHARMACY IN WRITING WITHIN 5 CALENDAR DAYS AFTER ANY**
22 **MATERIAL CHANGE IN ITS OWNERSHIP OR CONTROL RELATED TO ANY COMPANY,**
23 **SUBSIDIARY, OR OTHER ORGANIZATION DESCRIBED UNDER SUBSECTION (B) OF**
24 **THIS SECTION.**

25 **15-2014.**

26 **(A) BEFORE ENTERING INTO A CONTRACT WITH A THIRD-PARTY PAYER OR**
27 **PHARMACY BENEFITS MANAGER, A PHARMACY SERVICES ADMINISTRATIVE**
28 **ORGANIZATION SHALL PROVIDE TO THE THIRD-PARTY PAYER OR PHARMACY**
29 **BENEFITS MANAGER A WRITTEN DISCLOSURE OF OWNERSHIP OR CONTROL.**

30 **(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
31 **SHALL INCLUDE THE EXTENT OF ANY OWNERSHIP OR CONTROL BY ANY PARENT**
32 **COMPANY, SUBSIDIARY, OR OTHER ORGANIZATION THAT:**

1 **(1) PROVIDES PHARMACY SERVICES;**

2 **(2) PROVIDES PRESCRIPTION DRUG OR DEVICE SERVICES; OR**

3 **(3) MANUFACTURES, SELLS, OR DISTRIBUTES PRESCRIPTION DRUGS,**
4 **BIOLOGICS, OR MEDICAL DEVICES.**

5 **(C) A CONTRACT WITH A THIRD-PARTY PAYER OR PHARMACY BENEFITS**
6 **MANAGER SHALL PROVIDE THAT A PHARMACY SERVICES ADMINISTRATIVE**
7 **ORGANIZATION SHALL NOTIFY THE THIRD-PARTY PAYER OR PHARMACY BENEFITS**
8 **MANAGER IN WRITING WITHIN 5 CALENDAR DAYS AFTER ANY MATERIAL CHANGE IN**
9 **ITS OWNERSHIP OR CONTROL RELATED TO ANY COMPANY, SUBSIDIARY, OR OTHER**
10 **ORGANIZATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION.**

11 **15-2015.**

12 **A CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER AND A PHARMACY**
13 **SERVICES ADMINISTRATIVE ORGANIZATION THAT AUTHORIZES A PHARMACY**
14 **BENEFITS MANAGER TO CONDUCT AUDITS OF INDEPENDENT PHARMACIES FOR**
15 **WHICH THE PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION PROVIDES**
16 **SERVICES AS A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL**
17 **CONTAIN SPECIFIC LANGUAGE THAT AUTHORIZES THE PHARMACY BENEFITS**
18 **MANAGER TO OBTAIN INFORMATION FROM THE PHARMACY SERVICES**
19 **ADMINISTRATIVE ORGANIZATION REGARDING THE INDEPENDENT PHARMACY FOR**
20 **PURPOSES OF THE AUDIT.**

21 **15-2016.**

22 **A PHARMACY SERVICES ADMINISTRATIVE CONTRACT SHALL:**

23 **(1) REQUIRE ALL REMITTANCES FOR CLAIMS SUBMITTED BY A**
24 **PHARMACY BENEFITS MANAGER OR THIRD-PARTY PAYER ON BEHALF OF AN**
25 **INDEPENDENT PHARMACY TO BE PASSED BY THE PHARMACY SERVICES**
26 **ADMINISTRATIVE ORGANIZATION TO THE INDEPENDENT PHARMACY WITHIN A**
27 **REASONABLE AMOUNT OF TIME; AND**

28 **(2) SPECIFY THE REASONABLE AMOUNT OF TIME IN WHICH THE**
29 **PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION IS REQUIRED TO PASS THE**
30 **REMITTANCES RECEIVED FROM THE PHARMACY BENEFITS MANAGER OR**
31 **THIRD-PARTY PAYER TO THE INDEPENDENT PHARMACY.**

32 **15-2017.**

1 (A) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT
2 PROVIDES, ACCEPTS, OR PROCESSES A DISCOUNT, CONCESSION, OR PRODUCT
3 VOUCHER TO REDUCE, DIRECTLY OR INDIRECTLY, AN OUT-OF-POCKET EXPENSE
4 FOR THE ORDER, DISPENSING, SUBSTITUTION, SALE, OR PURCHASE OF A
5 PRESCRIPTION DRUG SHALL SUBMIT TO THE COMMISSIONER AN ANNUAL REPORT
6 THAT INCLUDES:

7 (1) AN AGGREGATED TOTAL OF THE AMOUNT RECEIVED BY THE
8 INDEPENDENT PHARMACY FOR PRESCRIPTION DRUGS THAT WERE SUBJECT TO A
9 DISCOUNT, CONCESSION, OR PRODUCT VOUCHER AND ORDERED, DISPENSED,
10 SUBSTITUTED, SOLD, OR PURCHASED BY THE INDEPENDENT PHARMACY; AND

11 (2) AN AGGREGATED TOTAL OF ANY PAYMENTS RECEIVED BY THE
12 PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION FOR PROVIDING,
13 ACCEPTING, OR PROCESSING DISCOUNTS, CONCESSIONS, OR PRODUCT VOUCHERS
14 ON BEHALF OF AN INDEPENDENT PHARMACY.

15 (B) THE COMMISSIONER SHALL MAKE THE REPORTS SUBMITTED UNDER
16 SUBSECTION (A) OF THIS SECTION AVAILABLE TO THE PUBLIC.

17 15-2018.

18 (A) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT OWNS
19 OR IS OWNED BY, IN WHOLE OR IN PART, AN ENTITY THAT MANUFACTURES, SELLS,
20 OR DISTRIBUTES PRESCRIPTION DRUGS, BIOLOGICS, OR MEDICAL DEVICES MAY
21 NOT REQUIRE, AS A CONDITION OF ENTERING INTO A PHARMACY SERVICES
22 ADMINISTRATIVE CONTRACT, THAT AN INDEPENDENT PHARMACY PURCHASE ANY
23 DRUGS, BIOLOGICS, OR MEDICAL DEVICES FROM THE ENTITY.

24 (B) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT OWNS
25 OR IS OWNED BY, IN WHOLE OR IN PART, ANY ENTITY THAT MANUFACTURES, SELLS,
26 OR DISTRIBUTES PRESCRIPTION DRUGS, BIOLOGICS, OR MEDICAL DEVICES SHALL
27 DISCLOSE TO THE COMMISSIONER ANY AGREEMENT WITH AN INDEPENDENT
28 PHARMACY UNDER WHICH THE INDEPENDENT PHARMACY PURCHASES
29 PRESCRIPTION DRUGS, BIOLOGICS, OR MEDICAL DEVICES FROM THE ENTITY.

30 15-2019.

31 ALL DISCLOSURES MADE UNDER THIS SUBTITLE SHALL COMPLY WITH THE
32 PRIVACY STANDARDS ESTABLISHED IN FEDERAL AND STATE LAW.

33 15-2020.

1 **A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION SHALL ESTABLISH**
2 **APPROPRIATE POLICIES AND PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF**
3 **THIS SUBTITLE.**

4 **15-2021.**

5 **(A) A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION MAY NOT:**

6 **(1) MISREPRESENT PERTINENT FACTS OR POLICY PROVISIONS THAT**
7 **RELATE TO AN ISSUE IN A COMPLAINT OR AN APPEAL OF A DECISION REGARDING A**
8 **COMPLAINT;**

9 **(2) REFUSE TO PAY OR REIMBURSE AN INDEPENDENT PHARMACY OR**
10 **A PHARMACY BENEFITS MANAGER FOR AN ARBITRARY OR CAPRICIOUS REASON**
11 **BASED ON ALL AVAILABLE INFORMATION;**

12 **(3) FAIL TO SETTLE A DISPUTE PROMPTLY WHENEVER LIABILITY IS**
13 **REASONABLY CLEAR UNDER ONE PART OF A POLICY OR CONTRACT, IN ORDER TO**
14 **INFLUENCE SETTLEMENTS UNDER OTHER PARTS OF THE POLICY OR CONTRACT; OR**

15 **(4) FAIL TO ACT IN GOOD FAITH.**

16 **(B) IF THE COMMISSIONER DETERMINES THAT A PHARMACY SERVICES**
17 **ADMINISTRATIVE ORGANIZATION HAS VIOLATED ANY PROVISION OF THIS SUBTITLE**
18 **OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER MAY**
19 **ISSUE AN ORDER THAT REQUIRES A PHARMACY SERVICES ADMINISTRATIVE**
20 **ORGANIZATION TO:**

21 **(1) CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND**
22 **FURTHER SIMILAR VIOLATIONS;**

23 **(2) TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE**
24 **VIOLATION;**

25 **(3) MAKE RESTITUTION OF MONEY, PROPERTY, AND OTHER ASSETS**
26 **TO A PERSON THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION;**
27 **OR**

28 **(4) PAY A FINE IN THE AMOUNT DETERMINED BY THE**
29 **COMMISSIONER.**

30 **(C) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION**

1 MAY BE SERVED ON A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT
2 IS REGISTERED UNDER § 15-2002 OF THIS SUBTITLE IN THE MANNER PROVIDED IN
3 § 2-204 OF THIS ARTICLE.

4 (2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION
5 MAY BE SERVED ON A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT
6 IS NOT REGISTERED UNDER § 15-2002 OF THIS SUBTITLE IN THE MANNER PROVIDED
7 IN § 4-206 OR § 4-207 OF THIS ARTICLE FOR SERVICE ON AN UNAUTHORIZED
8 INSURER THAT DOES AN ACT OF INSURANCE BUSINESS IN THE STATE.

9 (3) A REQUEST FOR A HEARING ON ANY ORDER ISSUED UNDER THIS
10 SECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE
11 PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION TO CEASE AND DESIST
12 FROM THE CONDUCT IDENTIFIED IN THE ORDER.

13 (4) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT
14 COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION,
15 WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER
16 OR NOT A HEARING HAS BEEN HELD.

17 (5) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT UNDER
18 THIS SECTION, THE COMMISSIONER MAY RECOVER, FOR THE USE OF THE STATE,
19 REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

20 (D) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE
21 COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
22 PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.

23 (E) THE COMMISSIONER MAY ADOPT REGULATIONS:

24 (1) TO CARRY OUT THIS SECTION; AND

25 (2) TO ESTABLISH A COMPLAINT PROCESS TO ADDRESS GRIEVANCES
26 AND APPEALS BROUGHT IN ACCORDANCE WITH THIS SECTION.

27 (F) THIS SECTION DOES NOT LIMIT ANY OTHER REGULATORY AUTHORITY
28 OF THE COMMISSIONER UNDER THIS ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2020.