

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS45200-MM-66A (03/12)

Short Title: Penalties for Noncompliance. (Public)

Sponsors: Senator Tillman (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE PHARMACY BENEFITS MANAGERS TO TIMELY ADJUST THE
3 COST PRICE AND TO MAKE CERTAIN ACTIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 56A of Chapter 58 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 58-56A-3. Maximum allowable cost price.**

8 (a) In order to place a prescription drug on the maximum allowable cost price list, the
9 drug must be available for purchase by pharmacies in North Carolina from national or regional
10 wholesalers, must not be obsolete, and must meet one of the following conditions:

11 (1) The drug is listed "A" or "B" rated in the most recent version of the United
12 States Food and Drug Administration's Approved Drug Products with
13 Therapeutic Equivalence Evaluations, also known as the Orange Book.

14 (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally
15 recognized reference.

16 (b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost
17 price for a prescription drug to remain consistent with changes in the national marketplace for
18 prescription drugs. A review of the maximum allowable cost prices for removal or modification
19 shall be completed by the pharmacy benefits manager at least once every seven business days
20 of the review. A pharmacy benefits manager shall provide a means by which the contracted
21 pharmacies may promptly review current prices in an electronic, print, or telephonic format
22 within one business day of the removal or modification.

23 (c) The Commissioner shall impose a fine of not less than one hundred dollars
24 (\$100.00) and not more than one thousand dollars (\$1,000) per day per prescription drug upon
25 a pharmacy benefits manager that fails to perform any review, adjustment, or removal required
26 by subsection (b) of this section in a timely manner. The clear proceeds of fines and penalties
27 assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in
28 accordance with G.S. 115C-457.2, and all fines collected shall be remitted to the General
29 Fund."

30 SECTION 2. G.S. 58-63-15 is amended by adding two new subdivisions to read:

31 "**§ 58-63-15. Unfair methods of competition and unfair or deceptive acts or practices**
32 **defined.**

33 The following are hereby defined as unfair methods of competition and unfair and
34 deceptive acts or practices in the business of insurance:

35 ...



- 1 (14) Improper Actions Related to Copayment. – Any violation of the prohibition
- 2 against waiver, discount, rebate, or distortion of a copayment or coinsurance
- 3 of any insurer, policy, or plan, as provided in G.S. 58-51-37(d), or any
- 4 violation of the prohibition against waiver of the collection of copayments
- 5 owed by recipients of Medicaid and NC Health Choice as provided in
- 6 G.S. 108C-13.
- 7 (15) Failure to Review, Adjust, or Remove Maximum Allowable Cost Price. – A
- 8 failure by a pharmacy benefits manager to perform in a timely manner any
- 9 review, adjustment, or removal required by G.S. 58-56A-3(b)."
- 10 **SECTION 3.** This act becomes effective October 1, 2015.