

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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SENATE BILL 384\*

Short Title: The Pharmacy Patient Fair Practices Act.

(Public)

Sponsors: Senators Britt, Rabon, and Meredith (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 27, 2017

A BILL TO BE ENTITLED

AN ACT RELATING TO THE REGULATION OF PHARMACY BENEFIT MANAGERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-56A-1 reads as rewritten:

**"§ 58-56A-1. Definitions.**

The following definitions apply in this Article:

(1) Health benefit plan. – As defined in G.S. 58-50-110(11). This definition specifically excludes the State Health Plan for Teachers and State Employees.

(2) Insured. – An individual covered by a health benefit plan.

(2)(3) Insurer. – Any entity that provides or offers a health benefit plan.

(3)(4) Maximum allowable cost price. – The maximum per unit reimbursement for multiple source prescription drugs, medical products, or devices.

(5) Pharmacist. – A person licensed to practice pharmacy under Article 4A of Chapter 90 of the General Statutes.

(4)(6) Pharmacy. – A pharmacy registered with the North Carolina Board of Pharmacy.

(5)(7) Pharmacy benefits manager. – An entity who contracts with a pharmacy on behalf of an insurer or third-party administrator to administer or manage prescription drug benefits.

(6)(8) Third-party administrator. – As defined in G.S. 58-56-2."

**SECTION 2.** Article 56A of Chapter 58 of the General Statutes is amended by adding three new sections to read:

**"§ 58-56A-2. Pharmacy of choice.**

A pharmacy benefits manager shall comply with the pharmacy of choice requirements under G.S. 58-51-37.

**"§ 58-56A-3. Consumer protections.**

(a) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from providing an insured information regarding the amount of the insured's cost share for a prescription drug and the clinical efficacy of a lower-priced alternative drug, if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for discussing any information described in this section or for selling a lower-priced drug to the insured if one is available.

(b) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from offering and providing store direct delivery services to an insured as an ancillary service of the pharmacy.



1       (c) A pharmacy benefits manager shall not charge, or attempt to collect from, an  
2 insured a co-payment that exceeds the total submitted charges by the network pharmacy for  
3 which the pharmacy is paid.

4       (d) A pharmacy benefits manager's failure to comply with this section shall be  
5 considered an unfair and deceptive trade practice and shall be actionable under Chapter 75 of  
6 the General Statutes. Nothing in this subsection shall foreclose other remedies available under  
7 law or equity.

8       **"§ 58-56A-4. Pharmacy and pharmacist protections.**

9       (a) A pharmacy benefits manager may not charge a fee, or otherwise hold a pharmacist  
10 or pharmacy responsible, for costs relating to the adjudication of a claim.

11       (b) A pharmacy benefits manager may not recoup funds from a pharmacy in connection  
12 with claims for which the pharmacy has already been paid without first complying with the  
13 requirements under Article 4C of this Chapter, unless the recoupment is otherwise permitted or  
14 required by law. No pharmacist or pharmacy shall be penalized or retaliated against for  
15 exercising any rights under this Chapter.

16       (c) This section shall not apply to any licensed group health maintenance organization  
17 with an exclusive medical group contract that operates its own pharmacies.

18       (d) A pharmacy benefits manager's failure to comply with this section shall be  
19 considered an unfair and deceptive trade practice and shall be actionable under Chapter 75 of  
20 the General Statutes. Nothing in this subsection shall foreclose other remedies available under  
21 law or equity."

22           **SECTION 3.** The Commissioner of Insurance may adopt rules to implement this  
23 act.

24           **SECTION 4.** This act becomes effective October 1, 2017, and applies to all  
25 contracts entered into, renewed, or amended on or after that date.