

Senator Evan J. Vickers proposes the following substitute bill:

PHARMACY BENEFITS MANAGER OR COORDINATOR

AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ requires a pharmacy benefits manager or coordinator that uses direct or indirect remuneration to report certain information to pharmacies or the pharmacies' pharmacy services administration organization; and
- ▶ prohibits a pharmacy benefits manager or coordinator from preventing a pharmacist from disclosing cost information to a patient.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-17b-626, Utah Code Annotated 1953



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-17b-626** is enacted to read:

28 **58-17b-626. Direct or indirect remuneration by pharmacy benefits managers --**

29 **Disclosure of customer costs.**

30 (1) As used in this section:

31 (a) "Cost" means the amount paid by a customer:

32 (i) with or without coverage by a health benefit plan;

33 (ii) with or without copays, deductibles, or coinsurance; and

34 (iii) with or without assistance from a drug manufacturer or others.

35 (b) (i) "Direct or indirect remuneration" means any adjustment in the total

36 compensation:

37 (A) received by a pharmacy from a pharmacy benefits manager for the sale of a drug,

38 device, or other product or service; and

39 (B) determined after the sale of the product or service.

40 (ii) "Direct or indirect remuneration" includes performance-based adjustments.

41 (c) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

42 (d) "Pharmacy services administration organization" means an entity that contracts

43 with a pharmacy to assist with third-party payer interactions and administrative services related

44 to third-party payer interactions, including:

45 (i) contracting with a pharmacy benefits manager on behalf of the pharmacy; and

46 (ii) managing a pharmacy's claims payments from third-party payers.

47 (e) "Sale" means a sale covered by a health benefit plan.

48 (2) If a pharmacy benefits manager or coordinator uses direct or indirect remuneration,

49 the pharmacy benefits manager or coordinator shall report to the pharmacy:

50 (a) the amount of direct or indirect remuneration related to the sale;

51 (b) the reason for the direct or indirect remuneration; and

52 (c) if the direct or indirect remuneration is a reduction in total compensation, what the

53 pharmacy can do to prevent the direct or indirect remuneration in the future.

54 (3) The report described in Subsection (2) shall be sent to a pharmacy or the

55 pharmacy's pharmacy services administration organization no later than 90 days after the

56 pharmacy benefits manager or coordinator receives a report of a sale of a product or service by

57 the pharmacy.

58 (4) (a) A pharmacy benefits manager or coordinator may not prohibit or penalize the
59 disclosure by a pharmacist of the cost of a drug, device, or other product or service sold by the
60 pharmacist to a patient or to the public.

61 (b) Penalties that are prohibited under Subsection (4)(a) include increased utilization
62 review, reduced payments, and other financial disincentives.

63 (5) A pharmacy benefits manager or coordinator may not require a patient to pay, at the
64 point of sale for a covered prescription drug, more than the lesser of:

65 (a) the applicable copayment for the prescription drug being dispensed; or

66 (b) the amount that the patient would pay for the prescription drug if the patient
67 purchased the prescription drug without using a health benefit plan.