S-0016.1

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**SENATE BILL 5075**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Kuderer, Short, Conway, Das, Nobles, Saldaña, Stanford, and Wilson, C.

AN ACT Relating to expanding access to pharmacy services; adding new sections to chapter 48.43 RCW; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

The definitions in this section apply throughout sections 2 through 5 of this act unless the context clearly requires otherwise.

(1) "Dependent" has the same meaning as in RCW 48.43.005.

(2) "Enrollee" has the same meaning as in RCW 48.43.005.

(3) "Health benefit plan" has the same meaning as in RCW 48.43.005.

(4) "Nonresident pharmacy" has the same meaning as in RCW 18.64.360.

(5) "Pharmacy benefit manager" has the same meaning as in RCW 48.200.020.

(6) "Pharmacy benefit manager's retail pharmacy network" means the retail pharmacies located in and licensed by the state and contracted by the pharmacy benefit manager to sell prescription drugs to enrollees of a health benefit plan administered by the manager and to the enrollees' dependents.

(7) "Retail community pharmacy" means a pharmacy licensed under chapter 18.64 RCW, that is open to the public, dispenses prescription drugs to the general public, and makes available face-to-face consultations between licensed pharmacists and the general public to whom prescription drugs are dispensed.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) A retail community pharmacy that requests to enter into a contractual agreement to join a retail pharmacy network and accepts the terms, conditions, formularies, and requirements relating to dispensing fees, payments, reimbursement amounts, and other pharmacy services of that network, shall be considered part of a pharmacy benefit manager's retail pharmacy network for purposes of an enrollee's or dependent's right to choose where to purchase covered prescription drugs under section 3 of this act.

(2) A health benefit plan or pharmacy benefit manager must accept a retail community pharmacy as part of a pharmacy benefit manager's retail pharmacy network.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) If a retail community pharmacy enters into a contractual retail pharmacy network agreement pursuant to section 2 of this act, a health benefit plan or pharmacy benefit manager shall permit each enrollee and dependent, at the enrollee's or dependent's option, to fill any covered prescription that may be obtained by mail at any retail community pharmacy of the enrollee's or dependent's choice within the pharmacy benefit manager's retail pharmacy network.

(2) A health benefit plan or pharmacy benefit manager who has entered into a contractual retail pharmacy network agreement with a retail community pharmacy shall not:

(a) Require an enrollee or dependent to exclusively obtain any prescription from a nonresident pharmacy;

(b) Impose upon an enrollee or dependent utilizing the retail community pharmacy a copayment, fee, or other condition not imposed upon enrollees and dependents electing to utilize a nonresident pharmacy;

(c) Subject any prescription dispensed by a retail community pharmacy to an enrollee or dependent to a minimum or maximum quantity limit, length of script, restriction on refills, or requirement to obtain refills not imposed upon a nonresident pharmacy;

(d) Require an enrollee or dependent in whole or in part to pay for any prescription dispensed by a retail community pharmacy and seek reimbursement if the enrollee or dependent is not required to pay for and seek reimbursement in the same manner for a prescription dispensed by a nonresident pharmacy;

(e) Subject an enrollee or dependent to any administrative requirement to use a retail community pharmacy that is not imposed upon the use of a nonresident pharmacy; or

(f) Impose any other term, condition, or requirement pertaining to the use of the services of a retail community pharmacy that materially and unreasonably interferes with or impairs the right of an enrollee or dependent to obtain prescriptions from a retail community pharmacy of the enrollee's or dependent's choice.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) No later than March 31st of each calendar year, each health benefit plan and pharmacy benefit manager shall file with the insurance commissioner, in such form and detail as the insurance commissioner shall prescribe, a report for the preceding calendar year stating that the pharmacy benefit manager or prescription drug benefit plan is in compliance with this chapter. The report shall fully disclose the amount, terms, and conditions relating to copayments, reimbursement options, and other payments associated with a prescription drug benefit plan.

(2) A written description of any reimbursement or payment arrangements is available upon request by any person pursuant to RCW 48.43.510.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) The insurance commissioner may assess a fine of up to ten thousand dollars for each violation by a pharmacy benefit manager or health benefit plan of section 2, 3, or 4(1) of this act. In addition, the insurance commissioner may order the pharmacy benefit manager or health benefit plan to take specific affirmative corrective action or make restitution.

(2) Failure of a pharmacy benefit manager or health benefit plan to comply with a previously agreed upon contractual retail pharmacy network agreement pursuant to section 2 or 3 of this act affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act.

(3) A pharmacy benefit manager or health benefit plan may appeal any decision made by the insurance commissioner in accordance with chapter 48.04 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2022.

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