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SENATE BILL 5857

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Parlette, Conway, Becker, and Pearson

Read first time 02/05/15. Referred to Committee on Health Care.

1            AN ACT Relating to registration and regulation of pharmacy  
2 benefit managers; amending RCW 19.340.030 and 19.340.010; adding a  
3 new section to chapter 19.340 RCW; adding a new section to chapter  
4 48.02 RCW; prescribing penalties; and providing an effective date.

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

6            **Sec. 1.** RCW 19.340.030 and 2014 c 213 s 2 are each amended to  
7 read as follows:

8            (1) To conduct business in this state, a pharmacy benefit manager  
9 must register with the (~~department of revenue's business licensing~~  
10 ~~service~~) office of the insurance commissioner and annually renew the  
11 registration.

12            (2) To register under this section, a pharmacy benefit manager  
13 must:

14            (a) Submit an application requiring the following information:

15            (i) The identity of the pharmacy benefit manager;

16            (ii) The name, business address, phone number, and contact person  
17 for the pharmacy benefit manager; and

18            (iii) Where applicable, the federal tax employer identification  
19 number for the entity; and

20            (b) Pay a registration fee of two hundred dollars.

1 (3) To renew a registration under this section, a pharmacy  
2 benefit manager must pay a renewal fee of two hundred dollars.

3 (4) All receipts from registrations and renewals collected by the  
4 (~~department~~) commissioner must be deposited into the (~~business~~  
5 ~~license account created in RCW 19.02.210~~) insurance commissioner's  
6 regulatory account created in RCW 48.02.190.

7 NEW SECTION. Sec. 2. A new section is added to chapter 19.340  
8 RCW to read as follows:

9 (1) The commissioner shall have enforcement authority over this  
10 chapter and shall have authority to render a binding decision in any  
11 dispute between a pharmacy benefit manager, or third-party  
12 administrator of prescription drug benefits, and a pharmacy arising  
13 out of an appeal regarding drug pricing and reimbursement. The  
14 commissioner shall not be bound by any arbitration agreements between  
15 a pharmacy benefit manager and a pharmacy and shall not be bound by  
16 any mediation or arbitration decisions.

17 (2) Any person, corporation, or third-party administrator of  
18 prescription drug benefits, pharmacy benefit manager, or business  
19 entity which violates any provision of this chapter shall be subject  
20 to a civil penalty in the amount of one thousand dollars for each act  
21 in violation of this chapter or, if the violation was knowing and  
22 willful, a civil penalty of five thousand dollars for each violation  
23 of this chapter.

24 (3) Any pharmacy or pharmacist shall not be billed or paid at or  
25 below the cost of the drug to the pharmacy. Any pharmacy or  
26 pharmacist injured as a result of a violation of this chapter may  
27 bring an action against that person, corporation, or third-party  
28 administrator of prescription drug benefits, pharmacy benefit  
29 manager, or business entity violating this chapter for the recovery  
30 of all actual damages occurring as a result thereof, plus attorneys'  
31 fees.

32 **Sec. 3.** RCW 19.340.010 and 2014 c 213 s 1 are each amended to  
33 read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Claim" means a request from a pharmacy or pharmacist to be  
37 reimbursed for the cost of filling or refilling a prescription for a  
38 drug or for providing a medical supply or service.

1           (2) "Commissioner" means the insurance commissioner established  
2 in chapter 48.02 RCW.

3           (3) "Insurer" has the same meaning as in RCW 48.01.050.

4           (~~(3)~~) (4) "Pharmacist" has the same meaning as in RCW  
5 18.64.011.

6           (~~(4)~~) (5) "Pharmacy" has the same meaning as in RCW 18.64.011.

7           (~~(5)~~) (6)(a) "Pharmacy benefit manager" means a person that  
8 contracts with pharmacies on behalf of an insurer, a third-party  
9 payor, or the prescription drug purchasing consortium established  
10 under RCW 70.14.060 to:

11           (i) Process claims for prescription drugs or medical supplies or  
12 provide retail network management for pharmacies or pharmacists;

13           (ii) Pay pharmacies or pharmacists for prescription drugs or  
14 medical supplies; or

15           (iii) Negotiate rebates with manufacturers for drugs paid for or  
16 procured as described in this subsection.

17           (b) "Pharmacy benefit manager" does not include a health care  
18 service contractor as defined in RCW 48.44.010.

19           (~~(6)~~) (7) "Third-party payor" means a person licensed under RCW  
20 48.39.005.

21           NEW SECTION. Sec. 4. A new section is added to chapter 48.02  
22 RCW to read as follows:

23           (1) The commissioner shall accept registration of pharmacy  
24 benefit managers as established in RCW 19.340.030 and receipts shall  
25 be deposited in the insurance commissioner's regulatory account.

26           (2) The commissioner shall have enforcement authority over  
27 chapter 19.340 RCW consistent with requirements established in  
28 section 2 of this act.

29           NEW SECTION. Sec. 5. Section 1 of this act takes effect January  
30 1, 2016.

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