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**SUBSTITUTE SENATE BILL 5857**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Parlette, Conway, Becker, and Pearson)

READ FIRST TIME 02/27/15.

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~~) established  
21 in rule by the commissioner. The registration fee must be set to

1 allow the registration and oversight activities to be self-  
2 supporting.

3 (3) To renew a registration under this section, a pharmacy  
4 benefit manager must pay a renewal fee (~~(of two hundred dollars)~~)  
5 established in rule by the commissioner. The renewal fee must be set  
6 to allow the renewal and oversight activities to be self-supporting.

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

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

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

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

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

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

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

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

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

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

9 ~~((3))~~ (4) "Pharmacist" has the same meaning as in RCW  
10 18.64.011.

11 ~~((4))~~ (5) "Pharmacy" has the same meaning as in RCW 18.64.011.

12 ~~((5))~~ (6)(a) "Pharmacy benefit manager" means a person that  
13 contracts with pharmacies on behalf of an insurer, a third-party  
14 payor, or the prescription drug purchasing consortium established  
15 under RCW 70.14.060 to:

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

18 (ii) Pay pharmacies or pharmacists for prescription drugs or  
19 medical supplies; or

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

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

24 ~~((6))~~ (7) "Third-party payor" means a person licensed under RCW  
25 48.39.005.

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

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

31 (2) The commissioner shall have enforcement authority over  
32 chapter 19.340 RCW consistent with requirements established in  
33 section 2 of this act.

34 (3) The commissioner may write rules to implement chapter 19.340  
35 RCW and to establish registration and renewal fees that ensure the  
36 registration, renewal, and oversight activities are self-supporting.

1        NEW SECTION.   **Sec. 5.**   Section 1 of this act takes effect January  
2   1, 2016.

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