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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)

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

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

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

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

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

(a) Submit an application requiring the following information:

(i) The identity of the pharmacy benefit manager;

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

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

(b) Pay a registration fee ((~~of two hundred dollars~~)) established in rule by the commissioner. The registration fee must be set to allow the registration and oversight activities to be self-supporting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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