PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1649

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Title 20, chapter 25, article 2, Arizona Revised Statutes, is amended by adding sections 20-3333 and 20-3334, to read:

20-3333. Pharmacy benefit manager; affiliated providers; prohibition against steering; exception; definition

A. A PHARMACY BENEFIT MANAGER MAY NOT TRANSFER TO OR RECEIVE FROM ITS AFFILIATED PROVIDER A RECORD CONTAINING PATIENT OR PRESCRIBER IDENTIFIABLE PRESCRIPTION INFORMATION FOR A COMMERCIAL PURPOSE. FOR THE PURPOSES OF THIS SUBSECTION, COMMERCIAL PURPOSE DOES NOT INCLUDE PHARMACY REIMBURSEMENT, FORMULARY COMPLIANCE, PHARMACEUTICAL CARE, UTILIZATION REVIEW BY A HEALTH CARE PROVIDER OR A PUBLIC HEALTH ACTIVITY AUTHORIZED BY LAW.

B. A PHARMACY BENEFIT MANAGER MAY NOT STEER OR DIRECT A PATIENT TO USE THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER.

C. SUBSECTION B OF THIS SECTION DOES NOT PROHIBIT A PHARMACY BENEFIT MANAGER FROM INCLUDING ITS AFFILIATED PROVIDER IN A PATIENT OR PROSPECTIVE PATIENT COMMUNICATION IF THE COMMUNICATION BOTH:

1. REGARDS INFORMATION ABOUT THE COST OR SERVICE PROVIDED BY PHARMACIES OR DURABLE MEDICAL EQUIPMENT PROVIDERS IN THE NETWORK OF A HEALTH BENEFITS PLAN IN WHICH THE PATIENT OR PROSPECTIVE PATIENT IS ENROLLED.

2. INCLUDES ACCURATE COMPARABLE INFORMATION REGARDING PHARMACIES OR DURABLE MEDICAL EQUIPMENT PROVIDERS IN THE NETWORK THAT ARE NOT THE ISSUER'S OR PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDERS.

D. A PHARMACY BENEFIT MANAGER MAY NOT DO ANY OF THE FOLLOWING:

1. REQUIRE A PATIENT TO USE THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER IN ORDER FOR THE PATIENT TO RECEIVE THE MAXIMUM BENEFIT FOR THE SERVICE UNDER THE PATIENT'S HEALTH BENEFITS PLAN.

2. REQUIRE OR INDUCE A PATIENT TO USE THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER, INCLUDING BY PROVIDING FOR REDUCED COST SHARING IF THE PATIENT USES THE AFFILIATED PROVIDER.

3. SOLICIT A PATIENT OR PRESCRIBER TO TRANSFER A PATIENT PRESCRIPTION TO THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER.

4. REQUIRE A PHARMACY OR DURABLE MEDICAL EQUIPMENT PROVIDER THAT IS NOT THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER TO TRANSFER A PATIENT'S PRESCRIPTION TO THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER WITHOUT THE PRIOR WRITTEN CONSENT OF THE PATIENT. THIS PARAGRAPH DOES NOT PROHIBIT A PATIENT FROM PERSONALLY REQUESTING TO TRANSFER THE PATIENT'S PRESCRIPTION WITHOUT WRITTEN CONSENT.

E. THE PROHIBITIONS IN THIS SECTION APPLY TO A PHARMACY BENEFIT MANAGER ACTING ON ITS OWN BEHALF OR ON BEHALF OF AN INSURER.

F. THIS SECTION DOES NOT APPLY TO HEALTH AND ACCIDENT INSURANCE COVERAGE THAT IS PROCURED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651 OR BY THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-782.

G. FOR THE PURPOSES OF THIS SECTION, "AFFILIATED PROVIDER" MEANS A PHARMACY OR DURABLE MEDICAL EQUIPMENT PROVIDER THAT DIRECTLY, OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH A PHARMACY BENEFIT MANAGER.

20-3334. Clinician-administered drugs; limitations; exception; definitions

A. A PHARMACY BENEFIT MANAGER OR A HEALTH INSURER MAY NOT:

1. REQUIRE A CLINICIAN-ADMINISTERED DRUG TO BE DISPENSED BY A PHARMACY, INCLUDING BY AN AFFILIATED PROVIDER, AS A CONDITION OF COVERAGE.

2. LIMIT OR EXCLUDE COVERAGE FOR A CLINICIAN-ADMINISTERED DRUG OR PRESCRIPTION DRUG THAT IS NOT DISPENSED BY A PHARMACY OR AFFILIATED

PROVIDER, IF THE PRESCRIPTION DRUG IS OTHERWISE COVERED UNDER THE HEALTH BENEFITS PLAN OR PHARMACY BENEFIT PLAN.

3. COVER A PRESCRIPTION DRUG AS A DIFFERENT BENEFIT OR TIER OR WITH COST SHARING REQUIREMENTS THAT IMPOSE GREATER EXPENSE FOR A COVERED INDIVIDUAL IF THE DRUG IS DISPENSED OR ADMINISTERED AT THE PRESCRIBER'S OFFICE, A HOSPITAL OUTPATIENT INFUSION CENTER OR ANY OTHER OUTPATIENT CLINICAL SETTING RATHER THAN A PHARMACY OR AFFILIATED PROVIDER.

B. THIS SECTION DOES NOT DO EITHER OF THE FOLLOWING:

1. AUTHORIZE A PERSON TO ADMINISTER A PRESCRIPTION DRUG THAT IS OTHERWISE PROHIBITED UNDER THE LAWS OF THIS STATE OR FEDERAL LAW.

2. MODIFY PRESCRIPTION DRUG ADMINISTRATION REQUIREMENTS UNDER THE LAWS OF THIS STATE, INCLUDING ANY REQUIREMENTS RELATED TO DELEGATING AND SUPERVISING PRESCRIPTION DRUG ADMINISTRATION.

C. THIS SECTION DOES NOT APPLY TO HEALTH AND ACCIDENT INSURANCE COVERAGE THAT IS PROCURED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651 OR BY THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-782.

D. FOR THE PURPOSES OF THIS SECTION:

1. "AFFILIATED PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-3333.

2. "CLINICIAN-ADMINISTERED DRUG" MEANS AN OUTPATIENT PRESCRIPTION DRUG THAT CANNOT REASONABLY BE SELF-ADMINISTERED BY THE PATIENT TO WHOM THE DRUG IS PRESCRIBED AND THAT IS TYPICALLY ADMINISTERED BY A HEALTH CARE PROVIDER AUTHORIZED UNDER THE LAWS OF THIS STATE TO ADMINISTER THE DRUG.

3. "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED, CERTIFIED OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE SERVICES IN THIS STATE.

4. "PRESCRIBER" MEANS AN INDIVIDUAL WHO IS LICENSED TO PRESCRIBE PRESCRIPTION DRUGS IN THIS STATE.

Sec. 2. Applicability

Sections 20-3333 and 20-3334, Arizona Revised Statutes, as added by this act, apply to contracts entered into, amended, extended or renewed on or after the effective date of this act.

Sec. 3. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

Amend title to conform

REGINA E. COBB

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