

COMMITTEE ON HEALTH & HUMAN SERVICES
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1458
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 20, chapter 25, article 2, Arizona Revised
3 Statutes, is amended by adding section 20-3337, to read:

4 20-3337. Pharmacy benefit managers; affiliated providers;
5 prohibition against steering; definition

6 A. A PHARMACY BENEFIT MANAGER MAY NOT TRANSFER TO OR RECEIVE FROM
7 ITS AFFILIATED PROVIDER A RECORD THAT CONTAINS PATIENT OR PRESCRIBER
8 IDENTIFIABLE PRESCRIPTION INFORMATION FOR A COMMERCIAL PURPOSE. FOR THE
9 PURPOSES OF THIS SUBSECTION, COMMERCIAL PURPOSE DOES NOT INCLUDE ANY OF
10 THE FOLLOWING:

- 11 1. PHARMACY REIMBURSEMENT.
- 12 2. FORMULARY COMPLIANCE.
- 13 3. PHARMACEUTICAL CARE.
- 14 4. UTILIZATION REVIEW BY A HEALTH CARE PROVIDER OR A PUBLIC HEALTH
15 ACTIVITY THAT IS AUTHORIZED BY LAW.

16 B. A PHARMACY BENEFIT MANAGER MAY NOT DIRECTLY OR INDIRECTLY STEER
17 A PATIENT TO USE THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER BY
18 DOING ANY OF THE FOLLOWING:

19 1. COMMUNICATING THROUGH DATA MINING OR OTHER SIMILAR PROCESSES OF
20 PATIENT INFORMATION THAT ARE GENERATED FROM OR OBTAINED THROUGH THE
21 PRESCRIPTION FILLING PROCESS AT A PHARMACY, INCLUDING:

22 (a) CONTACTING THE PATIENT VERBALLY OR IN WRITING TO INFLUENCE THE
23 PATIENT DIRECTLY OR INDIRECTLY.

24 (b) PROVIDING A PATIENT WITH THE OPTION TO USE AN ALTERNATIVE
25 PHARMACY THAT IS A PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER.

- 26 2. ATTEMPTING TO INFLUENCE A PATIENT TO USE AN AFFILIATED PROVIDER.
- 27 3. RETALIATING AGAINST A PATIENT WHO DOES NOT USE AN AFFILIATED
28 PROVIDER.

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

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

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

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

- 40 1. PENALIZE A BENEFICIARY OR PROVIDE AN INDUCEMENT TO THE
41 BENEFICIARY FOR THE PURPOSES OF GETTING THE BENEFICIARY TO USE A SPECIFIC
42 RETAIL, MAIL ORDER OR OTHER NETWORK PHARMACY THAT IS THE PHARMACY BENEFIT

1 MANAGER'S AFFILIATED PROVIDER. FOR THE PURPOSES OF THIS PARAGRAPH,
2 "INDUCEMENT" MEANS PROVIDING FINANCIAL INCENTIVES, INCLUDING VARIATIONS IN
3 PREMIUMS, DEDUCTIBLES, COPAYMENTS OR COINSURANCE.

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

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

12 4. PAY AN AFFILIATED PROVIDER A REIMBURSEMENT AMOUNT THAT IS MORE
13 THAN THE AMOUNT THE PHARMACY BENEFIT MANAGER PAYS A PHARMACY OR DURABLE
14 MEDICAL EQUIPMENT PROVIDER THAT IS NOT AN AFFILIATED PROVIDER FOR THE SAME
15 PRODUCT OR SERVICE.

16 5. COMMIT ANY UNFAIR AND DECEPTIVE TRADE PRACTICE THAT IS
17 PROHIBITED BY SECTION 44-1522.

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

20 F. THIS SECTION DOES NOT APPLY TO HEALTH AND ACCIDENT INSURANCE
21 COVERAGE THAT IS OBTAINED BY THE DEPARTMENT OF ADMINISTRATION UNDER
22 SECTION 38-651.

23 G. THE DEPARTMENT MAY INVESTIGATE VIOLATIONS OF THIS SECTION. ANY
24 CONDUCT IN VIOLATION OF THIS SECTION THAT IS PERFORMED WITH SUCH A
25 FREQUENCY AS TO INDICATE A GENERAL BUSINESS PRACTICE CONSTITUTES AN
26 UNLAWFUL PRACTICE UNDER SECTION 44-1522 AND IS SUBJECT TO THE CONSUMER
27 FRAUD PROVISIONS UNDER TITLE 44, CHAPTER 10, ARTICLE 7.

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

32 Sec. 2. Applicability

33 Section 20-3337, Arizona Revised Statutes, as added by this act,
34 applies to contracts that are entered into, amended, extended or renewed
35 on or after the effective date of this act."

36 Amend title to conform

And, as so amended, it do pass

SELINA BLISS
CHAIRMAN

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