



Rep. Gregory Harris

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10100HB0465ham002

LRB101 03398 KTG 59484 a

1 AMENDMENT TO HOUSE BILL 465

2 AMENDMENT NO. _____. Amend House Bill 465, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. The Freedom of Information Act is amended by
6 changing Sections 7 and 7.5 as follows:

7 (5 ILCS 140/7) (from Ch. 116, par. 207)

8 Sec. 7. Exemptions.

9 (1) When a request is made to inspect or copy a public
10 record that contains information that is exempt from disclosure
11 under this Section, but also contains information that is not
12 exempt from disclosure, the public body may elect to redact the
13 information that is exempt. The public body shall make the
14 remaining information available for inspection and copying.
15 Subject to this requirement, the following shall be exempt from
16 inspection and copying:

1 (a) Information specifically prohibited from
2 disclosure by federal or State law or rules and regulations
3 implementing federal or State law.

4 (b) Private information, unless disclosure is required
5 by another provision of this Act, a State or federal law or
6 a court order.

7 (b-5) Files, documents, and other data or databases
8 maintained by one or more law enforcement agencies and
9 specifically designed to provide information to one or more
10 law enforcement agencies regarding the physical or mental
11 status of one or more individual subjects.

12 (c) Personal information contained within public
13 records, the disclosure of which would constitute a clearly
14 unwarranted invasion of personal privacy, unless the
15 disclosure is consented to in writing by the individual
16 subjects of the information. "Unwarranted invasion of
17 personal privacy" means the disclosure of information that
18 is highly personal or objectionable to a reasonable person
19 and in which the subject's right to privacy outweighs any
20 legitimate public interest in obtaining the information.
21 The disclosure of information that bears on the public
22 duties of public employees and officials shall not be
23 considered an invasion of personal privacy.

24 (d) Records in the possession of any public body
25 created in the course of administrative enforcement
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the extent
2 that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative
8 enforcement proceedings conducted by the public body
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a
11 person will be deprived of a fair trial or an impartial
12 hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source, confidential information
15 furnished only by the confidential source, or persons
16 who file complaints with or provide information to
17 administrative, investigative, law enforcement, or
18 penal agencies; except that the identities of
19 witnesses to traffic accidents, traffic accident
20 reports, and rescue reports shall be provided by
21 agencies of local government, except when disclosure
22 would interfere with an active criminal investigation
23 conducted by the agency that is the recipient of the
24 request;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known or

1 disclose internal documents of correctional agencies
2 related to detection, observation or investigation of
3 incidents of crime or misconduct, and disclosure would
4 result in demonstrable harm to the agency or public
5 body that is the recipient of the request;

6 (vi) endanger the life or physical safety of law
7 enforcement personnel or any other person; or

8 (vii) obstruct an ongoing criminal investigation
9 by the agency that is the recipient of the request.

10 (d-5) A law enforcement record created for law
11 enforcement purposes and contained in a shared electronic
12 record management system if the law enforcement agency that
13 is the recipient of the request did not create the record,
14 did not participate in or have a role in any of the events
15 which are the subject of the record, and only has access to
16 the record through the shared electronic record management
17 system.

18 (e) Records that relate to or affect the security of
19 correctional institutions and detention facilities.

20 (e-5) Records requested by persons committed to the
21 Department of Corrections, Department of Human Services
22 Division of Mental Health, or a county jail if those
23 materials are available in the library of the correctional
24 institution or facility or jail where the inmate is
25 confined.

26 (e-6) Records requested by persons committed to the

1 Department of Corrections, Department of Human Services
2 Division of Mental Health, or a county jail if those
3 materials include records from staff members' personnel
4 files, staff rosters, or other staffing assignment
5 information.

6 (e-7) Records requested by persons committed to the
7 Department of Corrections or Department of Human Services
8 Division of Mental Health if those materials are available
9 through an administrative request to the Department of
10 Corrections or Department of Human Services Division of
11 Mental Health.

12 (e-8) Records requested by a person committed to the
13 Department of Corrections, Department of Human Services
14 Division of Mental Health, or a county jail, the disclosure
15 of which would result in the risk of harm to any person or
16 the risk of an escape from a jail or correctional
17 institution or facility.

18 (e-9) Records requested by a person in a county jail or
19 committed to the Department of Corrections or Department of
20 Human Services Division of Mental Health, containing
21 personal information pertaining to the person's victim or
22 the victim's family, including, but not limited to, a
23 victim's home address, home telephone number, work or
24 school address, work telephone number, social security
25 number, or any other identifying information, except as may
26 be relevant to a requester's current or potential case or

1 claim.

2 (e-10) Law enforcement records of other persons
3 requested by a person committed to the Department of
4 Corrections, Department of Human Services Division of
5 Mental Health, or a county jail, including, but not limited
6 to, arrest and booking records, mug shots, and crime scene
7 photographs, except as these records may be relevant to the
8 requester's current or potential case or claim.

9 (f) Preliminary drafts, notes, recommendations,
10 memoranda and other records in which opinions are
11 expressed, or policies or actions are formulated, except
12 that a specific record or relevant portion of a record
13 shall not be exempt when the record is publicly cited and
14 identified by the head of the public body. The exemption
15 provided in this paragraph (f) extends to all those records
16 of officers and agencies of the General Assembly that
17 pertain to the preparation of legislative documents.

18 (g) Trade secrets and commercial or financial
19 information obtained from a person or business where the
20 trade secrets or commercial or financial information are
21 furnished under a claim that they are proprietary,
22 privileged or confidential, and that disclosure of the
23 trade secrets or commercial or financial information would
24 cause competitive harm to the person or business, and only
25 insofar as the claim directly applies to the records
26 requested.

1 The information included under this exemption includes
2 all trade secrets and commercial or financial information
3 obtained by a public body, including a public pension fund,
4 from a private equity fund or a privately held company
5 within the investment portfolio of a private equity fund as
6 a result of either investing or evaluating a potential
7 investment of public funds in a private equity fund. The
8 exemption contained in this item does not apply to the
9 aggregate financial performance information of a private
10 equity fund, nor to the identity of the fund's managers or
11 general partners. The exemption contained in this item does
12 not apply to the identity of a privately held company
13 within the investment portfolio of a private equity fund,
14 unless the disclosure of the identity of a privately held
15 company may cause competitive harm.

16 Nothing contained in this paragraph (g) shall be
17 construed to prevent a person or business from consenting
18 to disclosure.

19 (h) Proposals and bids for any contract, grant, or
20 agreement, including information which if it were
21 disclosed would frustrate procurement or give an advantage
22 to any person proposing to enter into a contractor
23 agreement with the body, until an award or final selection
24 is made. Information prepared by or for the body in
25 preparation of a bid solicitation shall be exempt until an
26 award or final selection is made.

1 (i) Valuable formulae, computer geographic systems,
2 designs, drawings and research data obtained or produced by
3 any public body when disclosure could reasonably be
4 expected to produce private gain or public loss. The
5 exemption for "computer geographic systems" provided in
6 this paragraph (i) does not extend to requests made by news
7 media as defined in Section 2 of this Act when the
8 requested information is not otherwise exempt and the only
9 purpose of the request is to access and disseminate
10 information regarding the health, safety, welfare, or
11 legal rights of the general public.

12 (j) The following information pertaining to
13 educational matters:

14 (i) test questions, scoring keys and other
15 examination data used to administer an academic
16 examination;

17 (ii) information received by a primary or
18 secondary school, college, or university under its
19 procedures for the evaluation of faculty members by
20 their academic peers;

21 (iii) information concerning a school or
22 university's adjudication of student disciplinary
23 cases, but only to the extent that disclosure would
24 unavoidably reveal the identity of the student; and

25 (iv) course materials or research materials used
26 by faculty members.

1 (k) Architects' plans, engineers' technical
2 submissions, and other construction related technical
3 documents for projects not constructed or developed in
4 whole or in part with public funds and the same for
5 projects constructed or developed with public funds,
6 including but not limited to power generating and
7 distribution stations and other transmission and
8 distribution facilities, water treatment facilities,
9 airport facilities, sport stadiums, convention centers,
10 and all government owned, operated, or occupied buildings,
11 but only to the extent that disclosure would compromise
12 security.

13 (1) Minutes of meetings of public bodies closed to the
14 public as provided in the Open Meetings Act until the
15 public body makes the minutes available to the public under
16 Section 2.06 of the Open Meetings Act.

17 (m) Communications between a public body and an
18 attorney or auditor representing the public body that would
19 not be subject to discovery in litigation, and materials
20 prepared or compiled by or for a public body in
21 anticipation of a criminal, civil or administrative
22 proceeding upon the request of an attorney advising the
23 public body, and materials prepared or compiled with
24 respect to internal audits of public bodies.

25 (n) Records relating to a public body's adjudication of
26 employee grievances or disciplinary cases; however, this

1 exemption shall not extend to the final outcome of cases in
2 which discipline is imposed.

3 (o) Administrative or technical information associated
4 with automated data processing operations, including but
5 not limited to software, operating protocols, computer
6 program abstracts, file layouts, source listings, object
7 modules, load modules, user guides, documentation
8 pertaining to all logical and physical design of
9 computerized systems, employee manuals, and any other
10 information that, if disclosed, would jeopardize the
11 security of the system or its data or the security of
12 materials exempt under this Section.

13 (p) Records relating to collective negotiating matters
14 between public bodies and their employees or
15 representatives, except that any final contract or
16 agreement shall be subject to inspection and copying.

17 (q) Test questions, scoring keys, and other
18 examination data used to determine the qualifications of an
19 applicant for a license or employment.

20 (r) The records, documents, and information relating
21 to real estate purchase negotiations until those
22 negotiations have been completed or otherwise terminated.
23 With regard to a parcel involved in a pending or actually
24 and reasonably contemplated eminent domain proceeding
25 under the Eminent Domain Act, records, documents and
26 information relating to that parcel shall be exempt except

1 as may be allowed under discovery rules adopted by the
2 Illinois Supreme Court. The records, documents and
3 information relating to a real estate sale shall be exempt
4 until a sale is consummated.

5 (s) Any and all proprietary information and records
6 related to the operation of an intergovernmental risk
7 management association or self-insurance pool or jointly
8 self-administered health and accident cooperative or pool.
9 Insurance or self insurance (including any
10 intergovernmental risk management association or self
11 insurance pool) claims, loss or risk management
12 information, records, data, advice or communications.

13 (t) Information contained in or related to
14 examination, operating, or condition reports prepared by,
15 on behalf of, or for the use of a public body responsible
16 for the regulation or supervision of financial
17 institutions, ~~or~~ insurance companies, or pharmacy benefit
18 managers, unless disclosure is otherwise required by State
19 law.

20 (u) Information that would disclose or might lead to
21 the disclosure of secret or confidential information,
22 codes, algorithms, programs, or private keys intended to be
23 used to create electronic or digital signatures under the
24 Electronic Commerce Security Act.

25 (v) Vulnerability assessments, security measures, and
26 response policies or plans that are designed to identify,

1 prevent, or respond to potential attacks upon a community's
2 population or systems, facilities, or installations, the
3 destruction or contamination of which would constitute a
4 clear and present danger to the health or safety of the
5 community, but only to the extent that disclosure could
6 reasonably be expected to jeopardize the effectiveness of
7 the measures or the safety of the personnel who implement
8 them or the public. Information exempt under this item may
9 include such things as details pertaining to the
10 mobilization or deployment of personnel or equipment, to
11 the operation of communication systems or protocols, or to
12 tactical operations.

13 (w) (Blank).

14 (x) Maps and other records regarding the location or
15 security of generation, transmission, distribution,
16 storage, gathering, treatment, or switching facilities
17 owned by a utility, by a power generator, or by the
18 Illinois Power Agency.

19 (y) Information contained in or related to proposals,
20 bids, or negotiations related to electric power
21 procurement under Section 1-75 of the Illinois Power Agency
22 Act and Section 16-111.5 of the Public Utilities Act that
23 is determined to be confidential and proprietary by the
24 Illinois Power Agency or by the Illinois Commerce
25 Commission.

26 (z) Information about students exempted from

1 disclosure under Sections 10-20.38 or 34-18.29 of the
2 School Code, and information about undergraduate students
3 enrolled at an institution of higher education exempted
4 from disclosure under Section 25 of the Illinois Credit
5 Card Marketing Act of 2009.

6 (aa) Information the disclosure of which is exempted
7 under the Viatical Settlements Act of 2009.

8 (bb) Records and information provided to a mortality
9 review team and records maintained by a mortality review
10 team appointed under the Department of Juvenile Justice
11 Mortality Review Team Act.

12 (cc) Information regarding interments, entombments, or
13 inurnments of human remains that are submitted to the
14 Cemetery Oversight Database under the Cemetery Care Act or
15 the Cemetery Oversight Act, whichever is applicable.

16 (dd) Correspondence and records (i) that may not be
17 disclosed under Section 11-9 of the Illinois Public Aid
18 Code or (ii) that pertain to appeals under Section 11-8 of
19 the Illinois Public Aid Code.

20 (ee) The names, addresses, or other personal
21 information of persons who are minors and are also
22 participants and registrants in programs of park
23 districts, forest preserve districts, conservation
24 districts, recreation agencies, and special recreation
25 associations.

26 (ff) The names, addresses, or other personal

1 information of participants and registrants in programs of
2 park districts, forest preserve districts, conservation
3 districts, recreation agencies, and special recreation
4 associations where such programs are targeted primarily to
5 minors.

6 (gg) Confidential information described in Section
7 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

8 (hh) The report submitted to the State Board of
9 Education by the School Security and Standards Task Force
10 under item (8) of subsection (d) of Section 2-3.160 of the
11 School Code and any information contained in that report.

12 (ii) Records requested by persons committed to or
13 detained by the Department of Human Services under the
14 Sexually Violent Persons Commitment Act or committed to the
15 Department of Corrections under the Sexually Dangerous
16 Persons Act if those materials: (i) are available in the
17 library of the facility where the individual is confined;
18 (ii) include records from staff members' personnel files,
19 staff rosters, or other staffing assignment information;
20 or (iii) are available through an administrative request to
21 the Department of Human Services or the Department of
22 Corrections.

23 (jj) Confidential information described in Section
24 5-535 of the Civil Administrative Code of Illinois.

25 (1.5) Any information exempt from disclosure under the
26 Judicial Privacy Act shall be redacted from public records

1 prior to disclosure under this Act.

2 (2) A public record that is not in the possession of a
3 public body but is in the possession of a party with whom the
4 agency has contracted to perform a governmental function on
5 behalf of the public body, and that directly relates to the
6 governmental function and is not otherwise exempt under this
7 Act, shall be considered a public record of the public body,
8 for purposes of this Act.

9 (3) This Section does not authorize withholding of
10 information or limit the availability of records to the public,
11 except as stated in this Section or otherwise provided in this
12 Act.

13 (Source: P.A. 99-298, eff. 8-6-15; 99-346, eff. 1-1-16; 99-642,
14 eff. 7-28-16; 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;
15 100-732, eff. 8-3-18.)

16 (5 ILCS 140/7.5)

17 Sec. 7.5. Statutory exemptions. To the extent provided for
18 by the statutes referenced below, the following shall be exempt
19 from inspection and copying:

20 (a) All information determined to be confidential
21 under Section 4002 of the Technology Advancement and
22 Development Act.

23 (b) Library circulation and order records identifying
24 library users with specific materials under the Library
25 Records Confidentiality Act.

1 (c) Applications, related documents, and medical
2 records received by the Experimental Organ Transplantation
3 Procedures Board and any and all documents or other records
4 prepared by the Experimental Organ Transplantation
5 Procedures Board or its staff relating to applications it
6 has received.

7 (d) Information and records held by the Department of
8 Public Health and its authorized representatives relating
9 to known or suspected cases of sexually transmissible
10 disease or any information the disclosure of which is
11 restricted under the Illinois Sexually Transmissible
12 Disease Control Act.

13 (e) Information the disclosure of which is exempted
14 under Section 30 of the Radon Industry Licensing Act.

15 (f) Firm performance evaluations under Section 55 of
16 the Architectural, Engineering, and Land Surveying
17 Qualifications Based Selection Act.

18 (g) Information the disclosure of which is restricted
19 and exempted under Section 50 of the Illinois Prepaid
20 Tuition Act.

21 (h) Information the disclosure of which is exempted
22 under the State Officials and Employees Ethics Act, and
23 records of any lawfully created State or local inspector
24 general's office that would be exempt if created or
25 obtained by an Executive Inspector General's office under
26 that Act.

1 (i) Information contained in a local emergency energy
2 plan submitted to a municipality in accordance with a local
3 emergency energy plan ordinance that is adopted under
4 Section 11-21.5-5 of the Illinois Municipal Code.

5 (j) Information and data concerning the distribution
6 of surcharge moneys collected and remitted by carriers
7 under the Emergency Telephone System Act.

8 (k) Law enforcement officer identification information
9 or driver identification information compiled by a law
10 enforcement agency or the Department of Transportation
11 under Section 11-212 of the Illinois Vehicle Code.

12 (l) Records and information provided to a residential
13 health care facility resident sexual assault and death
14 review team or the Executive Council under the Abuse
15 Prevention Review Team Act.

16 (m) Information provided to the predatory lending
17 database created pursuant to Article 3 of the Residential
18 Real Property Disclosure Act, except to the extent
19 authorized under that Article.

20 (n) Defense budgets and petitions for certification of
21 compensation and expenses for court appointed trial
22 counsel as provided under Sections 10 and 15 of the Capital
23 Crimes Litigation Act. This subsection (n) shall apply
24 until the conclusion of the trial of the case, even if the
25 prosecution chooses not to pursue the death penalty prior
26 to trial or sentencing.

1 (o) Information that is prohibited from being
2 disclosed under Section 4 of the Illinois Health and
3 Hazardous Substances Registry Act.

4 (p) Security portions of system safety program plans,
5 investigation reports, surveys, schedules, lists, data, or
6 information compiled, collected, or prepared by or for the
7 Regional Transportation Authority under Section 2.11 of
8 the Regional Transportation Authority Act or the St. Clair
9 County Transit District under the Bi-State Transit Safety
10 Act.

11 (q) Information prohibited from being disclosed by the
12 Personnel Record ~~Records~~ Review Act.

13 (r) Information prohibited from being disclosed by the
14 Illinois School Student Records Act.

15 (s) Information the disclosure of which is restricted
16 under Section 5-108 of the Public Utilities Act.

17 (t) All identified or deidentified health information
18 in the form of health data or medical records contained in,
19 stored in, submitted to, transferred by, or released from
20 the Illinois Health Information Exchange, and identified
21 or deidentified health information in the form of health
22 data and medical records of the Illinois Health Information
23 Exchange in the possession of the Illinois Health
24 Information Exchange Authority due to its administration
25 of the Illinois Health Information Exchange. The terms
26 "identified" and "deidentified" shall be given the same

1 meaning as in the Health Insurance Portability and
2 Accountability Act of 1996, Public Law 104-191, or any
3 subsequent amendments thereto, and any regulations
4 promulgated thereunder.

5 (u) Records and information provided to an independent
6 team of experts under the Developmental Disability and
7 Mental Health Safety Act (also known as Brian's Law).

8 (v) Names and information of people who have applied
9 for or received Firearm Owner's Identification Cards under
10 the Firearm Owners Identification Card Act or applied for
11 or received a concealed carry license under the Firearm
12 Concealed Carry Act, unless otherwise authorized by the
13 Firearm Concealed Carry Act; and databases under the
14 Firearm Concealed Carry Act, records of the Concealed Carry
15 Licensing Review Board under the Firearm Concealed Carry
16 Act, and law enforcement agency objections under the
17 Firearm Concealed Carry Act.

18 (w) Personally identifiable information which is
19 exempted from disclosure under subsection (g) of Section
20 19.1 of the Toll Highway Act.

21 (x) Information which is exempted from disclosure
22 under Section 5-1014.3 of the Counties Code or Section
23 8-11-21 of the Illinois Municipal Code.

24 (y) Confidential information under the Adult
25 Protective Services Act and its predecessor enabling
26 statute, the Elder Abuse and Neglect Act, including

1 information about the identity and administrative finding
2 against any caregiver of a verified and substantiated
3 decision of abuse, neglect, or financial exploitation of an
4 eligible adult maintained in the Registry established
5 under Section 7.5 of the Adult Protective Services Act.

6 (z) Records and information provided to a fatality
7 review team or the Illinois Fatality Review Team Advisory
8 Council under Section 15 of the Adult Protective Services
9 Act.

10 (aa) Information which is exempted from disclosure
11 under Section 2.37 of the Wildlife Code.

12 (bb) Information which is or was prohibited from
13 disclosure by the Juvenile Court Act of 1987.

14 (cc) Recordings made under the Law Enforcement
15 Officer-Worn Body Camera Act, except to the extent
16 authorized under that Act.

17 (dd) Information that is prohibited from being
18 disclosed under Section 45 of the Condominium and Common
19 Interest Community Ombudsperson Act.

20 (ee) Information that is exempted from disclosure
21 under Section 30.1 of the Pharmacy Practice Act.

22 (ff) Information that is exempted from disclosure
23 under the Revised Uniform Unclaimed Property Act.

24 (gg) Information that is prohibited from being
25 disclosed under Section 7-603.5 of the Illinois Vehicle
26 Code.

1 (hh) Records that are exempt from disclosure under
2 Section 1A-16.7 of the Election Code.

3 (ii) Information which is exempted from disclosure
4 under Section 2505-800 of the Department of Revenue Law of
5 the Civil Administrative Code of Illinois.

6 (jj) Information and reports that are required to be
7 submitted to the Department of Labor by registering day and
8 temporary labor service agencies but are exempt from
9 disclosure under subsection (a-1) of Section 45 of the Day
10 and Temporary Labor Services Act.

11 (kk) Information prohibited from disclosure under the
12 Seizure and Forfeiture Reporting Act.

13 (ll) Information the disclosure of which is restricted
14 and exempted under Section 5-30.8 of the Illinois Public
15 Aid Code.

16 (mm) ~~(ll)~~ Records that are exempt from disclosure under
17 Section 4.2 of the Crime Victims Compensation Act.

18 (nn) ~~(ll)~~ Information that is exempt from disclosure
19 under Section 70 of the Higher Education Student Assistance
20 Act.

21 (oo) Information that is exempt from disclosure under
22 subsections (f) and (j) of Section 5-36 of the Illinois
23 Public Aid Code.

24 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,
25 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;
26 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;

1 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
2 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
3 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
4 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised
5 10-12-18.)

6 Section 5. The State Employees Group Insurance Act of 1971
7 is amended by changing Section 6.11 as follows:

8 (5 ILCS 375/6.11)

9 (Text of Section after amendment by P.A. 100-1170)

10 Sec. 6.11. Required health benefits; Illinois Insurance
11 Code requirements. The program of health benefits shall provide
12 the post-mastectomy care benefits required to be covered by a
13 policy of accident and health insurance under Section 356t of
14 the Illinois Insurance Code. The program of health benefits
15 shall provide the coverage required under Sections 356g,
16 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
17 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
18 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29,
19 and 356z.32 of the Illinois Insurance Code. The program of
20 health benefits must comply with Sections 155.22a, 155.37,
21 355b, 356z.19, 370c, and 370c.1, and Article XXXIIB of the
22 Illinois Insurance Code. The Department of Insurance shall
23 enforce the requirements of this Section with respect to
24 Sections 370c and 370c.1 of the Illinois Insurance Code; all

1 other requirements of this Section shall be enforced by the
2 Department of Central Management Services.

3 Rulemaking authority to implement Public Act 95-1045, if
4 any, is conditioned on the rules being adopted in accordance
5 with all provisions of the Illinois Administrative Procedure
6 Act and all rules and procedures of the Joint Committee on
7 Administrative Rules; any purported rule not so adopted, for
8 whatever reason, is unauthorized.

9 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
10 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
11 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19;
12 100-1170, eff. 6-1-19.)

13 Section 10. The Illinois Insurance Code is amended by
14 adding Article XXXIIB as follows:

15 (215 ILCS 5/Art. XXXIIB heading new)

16 ARTICLE XXXIIB. PHARMACY BENEFIT MANAGERS

17 (215 ILCS 5/513b1 new)

18 Sec. 513b1. Pharmacy benefit manager contracts.

19 (a) As used in this Section:

20 "Biological product" has the meaning ascribed to that term
21 in Section 19.5 of the Pharmacy Practice Act.

22 "Maximum allowable cost" means the maximum amount that a
23 pharmacy benefit manager will reimburse a pharmacy for the cost

1 of a drug.

2 "Maximum allowable cost list" means a list of drugs for
3 which a maximum allowable cost has been established by a
4 pharmacy benefit manager.

5 "Pharmacy benefit manager" means a person, business, or
6 entity, including a wholly or partially owned or controlled
7 subsidiary of a pharmacy benefit manager, that provides claims
8 processing services or other prescription drug or device
9 services, or both, for health benefit plans.

10 "Retail price" means the price an individual without
11 prescription drug coverage would pay at a retail pharmacy, not
12 including a pharmacist dispensing fee.

13 (b) A contract between a health insurer and a pharmacy
14 benefit manager must require that the pharmacy benefit manager:

15 (1) Update maximum allowable cost pricing information
16 at least every 7 calendar days.

17 (2) Maintain a process that will, in a timely manner,
18 eliminate drugs from maximum allowable cost lists or modify
19 drug prices to remain consistent with changes in pricing
20 data used in formulating maximum allowable cost prices and
21 product availability.

22 (3) Provide access to its maximum allowable cost list
23 to each pharmacy or pharmacy services administrative
24 organization subject to the maximum allowable cost list.
25 Access may include a real-time pharmacy website portal to
26 be able to view the maximum allowable cost list. As used in

1 this Section, "pharmacy services administrative
2 organization" means an entity operating within the State
3 that contracts with independent pharmacies to conduct
4 business on their behalf with third-party payers. A
5 pharmacy services administrative organization may provide
6 administrative services to pharmacies and negotiate and
7 enter into contracts with third-party payers or pharmacy
8 benefit managers on behalf of pharmacies.

9 (4) Provide a process by which a contracted pharmacy
10 can appeal the provider's reimbursement for a drug subject
11 to maximum allowable cost pricing. The appeals process
12 must, at a minimum, include the following:

13 (A) A requirement that a contracted pharmacy has 14
14 calendar days after the applicable fill date to appeal
15 a maximum allowable cost if the reimbursement for the
16 drug is less than the net amount that the network
17 provider paid to the supplier of the drug.

18 (B) A requirement that a pharmacy benefit manager
19 must respond to a challenge within 14 calendar days of
20 the contracted pharmacy making the claim for which the
21 appeal has been submitted.

22 (C) A telephone number and e-mail address or
23 website to network providers, at which the provider can
24 contact the pharmacy benefit manager to process and
25 submit an appeal.

26 (D) A requirement that, if an appeal is denied, the

1 pharmacy benefit manager must provide the reason for
2 the denial and the name and the national drug code
3 number from national or regional wholesalers.

4 (E) A requirement that, if an appeal is sustained,
5 the pharmacy benefit manager must make an adjustment in
6 the drug price effective the date the challenge is
7 resolved and make the adjustment applicable to all
8 similarly situated network pharmacy providers, as
9 determined by the managed care organization or
10 pharmacy benefit manager.

11 (5) Allow a plan sponsor contracting with a pharmacy
12 benefit manager an annual right to audit compliance with
13 the terms of the contract by the pharmacy benefit manager,
14 including, but not limited to, full disclosure of any and
15 all rebate amounts secured, whether product specific or
16 generalized rebates, that were provided to the pharmacy
17 benefit manager by a pharmaceutical manufacturer.

18 (6) Allow a plan sponsor contracting with a pharmacy
19 benefit manager to request that the pharmacy benefit
20 manager disclose the actual amounts paid by the pharmacy
21 benefit manager to the pharmacy.

22 (7) Provide notice to the party contracting with the
23 pharmacy benefit manager of any consideration that the
24 pharmacy benefit manager receives from the manufacturer
25 for dispense as written prescriptions once a generic or
26 biologically similar product becomes available.

1 (c) In order to place a particular prescription drug on a
2 maximum allowable cost list, the pharmacy benefit manager must,
3 at a minimum, ensure that:

4 (1) if the drug is a generically equivalent drug, it is
5 listed as therapeutically equivalent and pharmaceutically
6 equivalent "A" or "B" rated in the United States Food and
7 Drug Administration's most recent version of the "Orange
8 Book" or have an NR or NA rating by Medi-Span, Gold
9 Standard, or a similar rating by a nationally recognized
10 reference;

11 (2) the drug is available for purchase by each pharmacy
12 in the State from national or regional wholesalers
13 operating in Illinois; and

14 (3) the drug is not obsolete.

15 (d) A pharmacy benefit manager is prohibited from limiting
16 a pharmacist's ability to disclose whether the cost-sharing
17 obligation exceeds the retail price for a covered prescription
18 drug, and the availability of a more affordable alternative
19 drug, if one is available in accordance with Section 42 of the
20 Pharmacy Practice Act.

21 (e) A health insurer or pharmacy benefit manager shall not
22 require an insured to make a payment for a prescription drug at
23 the point of sale in an amount that exceeds the lesser of:

24 (1) the applicable cost-sharing amount; or

25 (2) the retail price of the drug in the absence of
26 prescription drug coverage.

1 (f) This Section applies to contracts entered into or
2 renewed on or after July 1, 2020.

3 (g) This Section applies to any group or individual policy
4 of accident and health insurance or managed care plan that
5 provides coverage for prescription drugs and that is amended,
6 delivered, issued, or renewed on or after July 1, 2020.

7 (215 ILCS 5/513b2 new)

8 Sec. 513b2. Licensure requirements.

9 (a) Beginning on July 1, 2020, to conduct business in this
10 State, a pharmacy benefit manager must register with the
11 Director. To initially register or renew a registration, a
12 pharmacy benefit manager shall submit:

13 (1) A nonrefundable fee not to exceed \$500.

14 (2) A copy of the registrant's corporate charter,
15 articles of incorporation, or other charter document.

16 (3) A completed registration form adopted by the
17 Director containing:

18 (A) The name and address of the registrant.

19 (B) The name, address, and official position of
20 each officer and director of the registrant.

21 (b) The registrant shall report any change in information
22 required under this Section to the Director in writing within
23 60 days after the change occurs.

24 (c) Upon receipt of a completed registration form, the
25 required documents, and the registration fee, the Director

1 shall issue a registration certificate. The certificate may be
2 in paper or electronic form, and shall clearly indicate the
3 expiration date of the registration. Registration certificates
4 are nontransferable.

5 (d) A registration certificate is valid for 2 years after
6 its date of issue. The Director shall adopt by rule an initial
7 registration fee not to exceed \$500 and a registration renewal
8 fee not to exceed \$500, both of which shall be nonrefundable.
9 Total fees may not exceed the cost of administering this
10 Section.

11 (e) The Department shall adopt any rules necessary to
12 implement this Section.

13 (215 ILCS 5/513b3 new)

14 Sec. 513b3. Examination.

15 (a) The Director, or his or her designee, may examine a
16 registered pharmacy benefit manager.

17 (b) Any pharmacy benefit manager being examined shall
18 provide to the Director, or his or her designee, convenient and
19 free access to all books, records, documents, and other papers
20 relating to such pharmacy benefit manager's business affairs at
21 all reasonable hours at its offices.

22 (c) The Director, or his or her designee, may administer
23 oaths and thereafter examine the pharmacy benefit manager's
24 designee, representative, or any officer or senior manager as
25 listed on the license or registration certificate about the

1 business of the pharmacy benefit manager.

2 (d) The examiners designated by the Director under this
3 Section may make reports to the Director. Any report alleging
4 substantive violations of this Article, any applicable
5 provisions of this Code, or any applicable Part of Title 50 of
6 the Illinois Administrative Code shall be in writing and be
7 based upon facts obtained by the examiners. The report shall be
8 verified by the examiners.

9 (e) If a report is made, the Director shall either deliver
10 a duplicate report to the pharmacy benefit manager being
11 examined or send such duplicate by certified or registered mail
12 to the pharmacy benefit manager's address specified in the
13 records of the Department. The Director shall afford the
14 pharmacy benefit manager an opportunity to request a hearing to
15 object to the report. The pharmacy benefit manager may request
16 a hearing within 30 days after receipt of the duplicate report
17 by giving the Director written notice of such request together
18 with written objections to the report. Any hearing shall be
19 conducted in accordance with Sections 402 and 403 of this Code.
20 The right to a hearing is waived if the delivery of the report
21 is refused or the report is otherwise undeliverable or the
22 pharmacy benefit manager does not timely request a hearing.
23 After the hearing or upon expiration of the time period during
24 which a pharmacy benefit manager may request a hearing, if the
25 examination reveals that the pharmacy benefit manager is
26 operating in violation of any applicable provision of this

1 Code, any applicable Part of Title 50 of the Illinois
2 Administrative Code, a provision of this Article, or prior
3 order, the Director, in the written order, may require the
4 pharmacy benefit manager to take any action the Director
5 considers necessary or appropriate in accordance with the
6 report or examination hearing. If the Director issues an order,
7 it shall be issued within 90 days after the report is filed, or
8 if there is a hearing, within 90 days after the conclusion of
9 the hearing. The order is subject to review under the
10 Administrative Review Law.

11 (215 ILCS 5/513b4 new)

12 Sec. 513b4. Denial, revocation, or suspension of
13 registration; administrative fines.

14 (a) Denial of an application or suspension or revocation of
15 a registration in accordance with this Section shall be by
16 written order sent to the applicant or registrant by certified
17 or registered mail at the address specified in the records of
18 the Department. The written order shall state the grounds,
19 charges, or conduct on which denial, suspension, or revocation
20 is based. The applicant or registrant may in writing request a
21 hearing within 30 days from the date of mailing. Upon receipt
22 of a written request, the Director shall issue an order
23 setting: (i) a specific time for the hearing, which may not be
24 less than 20 nor more than 30 days after receipt of the
25 request; and (ii) a specific place for the hearing, which may

1 be in either the city of Springfield or in the county in
2 Illinois where the applicant's or registrant's principal place
3 of business is located. If no written request is received by
4 the Director, such order shall be final upon the expiration of
5 said 30 days.

6 (b) If the Director finds that one or more grounds exist
7 for the revocation or suspension of a registration issued under
8 this Article, the Director may, in lieu of or in addition to
9 such suspension or revocation, impose a fine upon the pharmacy
10 benefit manager as provided under subsection (c).

11 (c) With respect to any knowing and willful violation of a
12 lawful order of the Director, any applicable portion of this
13 Code, Part of Title 50 of the Illinois Administrative Code, or
14 provision of this Article, the Director may impose a fine upon
15 the pharmacy benefit manager in an amount not to exceed \$50,000
16 for each violation.

17 (215 ILCS 5/513b5 new)

18 Sec. 513b5. Failure to register. Any pharmacy benefit
19 manager that operates without a registration or fails to
20 register with the Director and pay the fee prescribed by this
21 Article is an unauthorized insurer as defined in Article VII of
22 this Code and shall be subject to all penalties provided for
23 therein.

24 (215 ILCS 5/513b6 new)

1 Sec. 513b6. Insurance Producer Administration Fund. All
2 fees and fines paid to and collected by the Director under this
3 Article shall be paid promptly after receipt thereof, together
4 with a detailed statement of such fees, into the Insurance
5 Producer Administration Fund. The moneys deposited into the
6 Insurance Producer Administration Fund may be transferred to
7 the Professions Indirect Cost Fund, as authorized under Section
8 2105-300 of the Department of Professional Regulation Law of
9 the Civil Administrative Code of Illinois.

10 Section 15. The Health Maintenance Organization Act is
11 amended by changing Section 5-3 as follows:

12 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

13 Sec. 5-3. Insurance Code provisions.

14 (a) Health Maintenance Organizations shall be subject to
15 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
16 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
17 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
18 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
19 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
20 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,
21 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32, 364,
22 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e,
23 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
24 444, and 444.1, paragraph (c) of subsection (2) of Section 367,

1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,
2 ~~and XXVI,~~ and XXXIIB of the Illinois Insurance Code.

3 (b) For purposes of the Illinois Insurance Code, except for
4 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
5 Maintenance Organizations in the following categories are
6 deemed to be "domestic companies":

7 (1) a corporation authorized under the Dental Service
8 Plan Act or the Voluntary Health Services Plans Act;

9 (2) a corporation organized under the laws of this
10 State; or

11 (3) a corporation organized under the laws of another
12 state, 30% or more of the enrollees of which are residents
13 of this State, except a corporation subject to
14 substantially the same requirements in its state of
15 organization as is a "domestic company" under Article VIII
16 1/2 of the Illinois Insurance Code.

17 (c) In considering the merger, consolidation, or other
18 acquisition of control of a Health Maintenance Organization
19 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

20 (1) the Director shall give primary consideration to
21 the continuation of benefits to enrollees and the financial
22 conditions of the acquired Health Maintenance Organization
23 after the merger, consolidation, or other acquisition of
24 control takes effect;

25 (2) (i) the criteria specified in subsection (1) (b) of
26 Section 131.8 of the Illinois Insurance Code shall not

1 apply and (ii) the Director, in making his determination
2 with respect to the merger, consolidation, or other
3 acquisition of control, need not take into account the
4 effect on competition of the merger, consolidation, or
5 other acquisition of control;

6 (3) the Director shall have the power to require the
7 following information:

8 (A) certification by an independent actuary of the
9 adequacy of the reserves of the Health Maintenance
10 Organization sought to be acquired;

11 (B) pro forma financial statements reflecting the
12 combined balance sheets of the acquiring company and
13 the Health Maintenance Organization sought to be
14 acquired as of the end of the preceding year and as of
15 a date 90 days prior to the acquisition, as well as pro
16 forma financial statements reflecting projected
17 combined operation for a period of 2 years;

18 (C) a pro forma business plan detailing an
19 acquiring party's plans with respect to the operation
20 of the Health Maintenance Organization sought to be
21 acquired for a period of not less than 3 years; and

22 (D) such other information as the Director shall
23 require.

24 (d) The provisions of Article VIII 1/2 of the Illinois
25 Insurance Code and this Section 5-3 shall apply to the sale by
26 any health maintenance organization of greater than 10% of its

1 enrollee population (including without limitation the health
2 maintenance organization's right, title, and interest in and to
3 its health care certificates).

4 (e) In considering any management contract or service
5 agreement subject to Section 141.1 of the Illinois Insurance
6 Code, the Director (i) shall, in addition to the criteria
7 specified in Section 141.2 of the Illinois Insurance Code, take
8 into account the effect of the management contract or service
9 agreement on the continuation of benefits to enrollees and the
10 financial condition of the health maintenance organization to
11 be managed or serviced, and (ii) need not take into account the
12 effect of the management contract or service agreement on
13 competition.

14 (f) Except for small employer groups as defined in the
15 Small Employer Rating, Renewability and Portability Health
16 Insurance Act and except for medicare supplement policies as
17 defined in Section 363 of the Illinois Insurance Code, a Health
18 Maintenance Organization may by contract agree with a group or
19 other enrollment unit to effect refunds or charge additional
20 premiums under the following terms and conditions:

21 (i) the amount of, and other terms and conditions with
22 respect to, the refund or additional premium are set forth
23 in the group or enrollment unit contract agreed in advance
24 of the period for which a refund is to be paid or
25 additional premium is to be charged (which period shall not
26 be less than one year); and

1 (ii) the amount of the refund or additional premium
2 shall not exceed 20% of the Health Maintenance
3 Organization's profitable or unprofitable experience with
4 respect to the group or other enrollment unit for the
5 period (and, for purposes of a refund or additional
6 premium, the profitable or unprofitable experience shall
7 be calculated taking into account a pro rata share of the
8 Health Maintenance Organization's administrative and
9 marketing expenses, but shall not include any refund to be
10 made or additional premium to be paid pursuant to this
11 subsection (f)). The Health Maintenance Organization and
12 the group or enrollment unit may agree that the profitable
13 or unprofitable experience may be calculated taking into
14 account the refund period and the immediately preceding 2
15 plan years.

16 The Health Maintenance Organization shall include a
17 statement in the evidence of coverage issued to each enrollee
18 describing the possibility of a refund or additional premium,
19 and upon request of any group or enrollment unit, provide to
20 the group or enrollment unit a description of the method used
21 to calculate (1) the Health Maintenance Organization's
22 profitable experience with respect to the group or enrollment
23 unit and the resulting refund to the group or enrollment unit
24 or (2) the Health Maintenance Organization's unprofitable
25 experience with respect to the group or enrollment unit and the
26 resulting additional premium to be paid by the group or

1 enrollment unit.

2 In no event shall the Illinois Health Maintenance
3 Organization Guaranty Association be liable to pay any
4 contractual obligation of an insolvent organization to pay any
5 refund authorized under this Section.

6 (g) Rulemaking authority to implement Public Act 95-1045,
7 if any, is conditioned on the rules being adopted in accordance
8 with all provisions of the Illinois Administrative Procedure
9 Act and all rules and procedures of the Joint Committee on
10 Administrative Rules; any purported rule not so adopted, for
11 whatever reason, is unauthorized.

12 (Source: P.A. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;
13 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1026, eff.
14 8-22-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
15 10-4-18.)

16 Section 20. The Managed Care Reform and Patient Rights Act
17 is amended by changing Sections 10 and 30 as follows:

18 (215 ILCS 134/10)

19 Sec. 10. Definitions.

20 "Adverse determination" means a determination by a health
21 care plan under Section 45 or by a utilization review program
22 under Section 85 that a health care service is not medically
23 necessary.

24 "Clinical peer" means a health care professional who is in

1 the same profession and the same or similar specialty as the
2 health care provider who typically manages the medical
3 condition, procedures, or treatment under review.

4 "Department" means the Department of Insurance.

5 "Emergency medical condition" means a medical condition
6 manifesting itself by acute symptoms of sufficient severity,
7 regardless of the final diagnosis given, ~~(including, but not~~
8 ~~limited to, severe pain)~~ such that a prudent layperson, who
9 possesses an average knowledge of health and medicine, could
10 reasonably expect the absence of immediate medical attention to
11 result in:

12 (1) placing the health of the individual (or, with
13 respect to a pregnant woman, the health of the woman or her
14 unborn child) in serious jeopardy;

15 (2) serious impairment to bodily functions; ~~or~~

16 (3) serious dysfunction of any bodily organ or part; ~~or~~

17 (4) inadequately controlled pain; or

18 (5) with respect to a pregnant woman who is having
19 contractions:

20 (A) inadequate time to complete a safe transfer to
21 another hospital before delivery; or

22 (B) a transfer to another hospital may pose a
23 threat to the health or safety of the woman or unborn
24 child.

25 "Emergency medical screening examination" means a medical
26 screening examination and evaluation by a physician licensed to

1 practice medicine in all its branches, or to the extent
2 permitted by applicable laws, by other appropriately licensed
3 personnel under the supervision of or in collaboration with a
4 physician licensed to practice medicine in all its branches to
5 determine whether the need for emergency services exists.

6 "Emergency services" means, with respect to an enrollee of
7 a health care plan, transportation services, including but not
8 limited to ambulance services, and covered inpatient and
9 outpatient hospital services furnished by a provider qualified
10 to furnish those services that are needed to evaluate or
11 stabilize an emergency medical condition. "Emergency services"
12 does not refer to post-stabilization medical services.

13 "Enrollee" means any person and his or her dependents
14 enrolled in or covered by a health care plan.

15 "Health care plan" means a plan, including, but not limited
16 to, a health maintenance organization, a managed care community
17 network as defined in the Illinois Public Aid Code, or an
18 accountable care entity as defined in the Illinois Public Aid
19 Code that receives capitated payments to cover medical services
20 from the Department of Healthcare and Family Services, that
21 establishes, operates, or maintains a network of health care
22 providers that has entered into an agreement with the plan to
23 provide health care services to enrollees to whom the plan has
24 the ultimate obligation to arrange for the provision of or
25 payment for services through organizational arrangements for
26 ongoing quality assurance, utilization review programs, or

1 dispute resolution. Nothing in this definition shall be
2 construed to mean that an independent practice association or a
3 physician hospital organization that subcontracts with a
4 health care plan is, for purposes of that subcontract, a health
5 care plan.

6 For purposes of this definition, "health care plan" shall
7 not include the following:

8 (1) indemnity health insurance policies including
9 those using a contracted provider network;

10 (2) health care plans that offer only dental or only
11 vision coverage;

12 (3) preferred provider administrators, as defined in
13 Section 370g(g) of the Illinois Insurance Code;

14 (4) employee or employer self-insured health benefit
15 plans under the federal Employee Retirement Income
16 Security Act of 1974;

17 (5) health care provided pursuant to the Workers'
18 Compensation Act or the Workers' Occupational Diseases
19 Act; and

20 (6) not-for-profit voluntary health services plans
21 with health maintenance organization authority in
22 existence as of January 1, 1999 that are affiliated with a
23 union and that only extend coverage to union members and
24 their dependents.

25 "Health care professional" means a physician, a registered
26 professional nurse, or other individual appropriately licensed

1 or registered to provide health care services.

2 "Health care provider" means any physician, hospital
3 facility, facility licensed under the Nursing Home Care Act,
4 long-term care facility as defined in Section 1-113 of the
5 Nursing Home Care Act, or other person that is licensed or
6 otherwise authorized to deliver health care services. Nothing
7 in this Act shall be construed to define Independent Practice
8 Associations or Physician-Hospital Organizations as health
9 care providers.

10 "Health care services" means any services included in the
11 furnishing to any individual of medical care, or the
12 hospitalization incident to the furnishing of such care, as
13 well as the furnishing to any person of any and all other
14 services for the purpose of preventing, alleviating, curing, or
15 healing human illness or injury including home health and
16 pharmaceutical services and products.

17 "Medical director" means a physician licensed in any state
18 to practice medicine in all its branches appointed by a health
19 care plan.

20 "Person" means a corporation, association, partnership,
21 limited liability company, sole proprietorship, or any other
22 legal entity.

23 "Physician" means a person licensed under the Medical
24 Practice Act of 1987.

25 "Post-stabilization medical services" means health care
26 services provided to an enrollee that are furnished in a

1 licensed hospital by a provider that is qualified to furnish
2 such services, and determined to be medically necessary and
3 directly related to the emergency medical condition following
4 stabilization.

5 "Stabilization" means, with respect to an emergency
6 medical condition, to provide such medical treatment of the
7 condition as may be necessary to assure, within reasonable
8 medical probability, that no material deterioration of the
9 condition is likely to result.

10 "Utilization review" means the evaluation of the medical
11 necessity, appropriateness, and efficiency of the use of health
12 care services, procedures, and facilities.

13 "Utilization review program" means a program established
14 by a person to perform utilization review.

15 (Source: P.A. 98-651, eff. 6-16-14; 98-841, eff. 8-1-14; 99-78,
16 eff. 7-20-15.)

17 (215 ILCS 134/30)

18 Sec. 30. Prohibitions.

19 (a) No health care plan or its subcontractors may prohibit
20 or discourage health care providers by contract or policy from
21 discussing any health care services and health care providers,
22 utilization review and quality assurance policies, terms and
23 conditions of plans and plan policy with enrollees, prospective
24 enrollees, providers, or the public.

25 (b) No health care plan by contract, written policy, or

1 procedure may permit or allow an individual or entity to
2 dispense a different drug in place of the drug or brand of drug
3 ordered or prescribed without the express permission of the
4 person ordering or prescribing the drug, except as provided
5 under Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

6 (c) No health care plan or its subcontractors may by
7 contract, written policy, procedure, or otherwise mandate or
8 require an enrollee to substitute his or her participating
9 primary care physician under the plan during inpatient
10 hospitalization, such as with a hospitalist physician licensed
11 to practice medicine in all its branches, without the agreement
12 of that enrollee's participating primary care physician.
13 "Participating primary care physician" for health care plans
14 and subcontractors that do not require coordination of care by
15 a primary care physician means the participating physician
16 treating the patient. All health care plans shall inform
17 enrollees of any policies, recommendations, or guidelines
18 concerning the substitution of the enrollee's primary care
19 physician when hospitalization is necessary in the manner set
20 forth in subsections (d) and (e) of Section 15.

21 (d) A health care plan shall apply any third-party
22 payments, financial assistance, discount, product vouchers, or
23 any other reduction in out-of-pocket expenses made by or on
24 behalf of such insured for prescription drugs toward a covered
25 individual's deductible, copay, or cost-sharing
26 responsibility, or out-of-pocket maximum associated with the

1 individual's health insurance.

2 (e) ~~(d)~~ Any violation of this Section shall be subject to
3 the penalties under this Act.

4 (Source: P.A. 94-866, eff. 6-16-06.)

5 Section 25. The Pharmacy Practice Act is amended by adding
6 Section 42 as follows:

7 (225 ILCS 85/42 new)

8 Sec. 42. Information disclosure. A pharmacist or her or his
9 authorized employee must inform customers of a less expensive,
10 generically equivalent drug product for her or his prescription
11 and whether the cost-sharing obligation to the customer exceeds
12 the retail price of the prescription in the absence of
13 prescription drug coverage.

14 Section 30. The Illinois Public Aid Code is amended by
15 adding Section 5-36 as follows:

16 (305 ILCS 5/5-36 new)

17 Sec. 5-36. Pharmacy benefits.

18 (a) (1) The Department may enter into a contract with a
19 third party on a fee-for-service reimbursement model for the
20 purpose of administering pharmacy benefits as provided in this
21 Section for members not enrolled in a Medicaid managed care
22 organization; however, these services shall be approved by the

1 Department. The Department shall ensure coordination of care
2 between the third-party administrator and managed care
3 organizations as a consideration in any contracts established
4 in accordance with this Section. Any managed care techniques,
5 principles, or administration of benefits utilized in
6 accordance with this subsection shall comply with State law.

7 (2) The following shall apply to contracts between entities
8 contracting relating to the Department's third-party
9 administrators and pharmacies:

10 (A) the Department shall approve any contract between a
11 third-party administrator and a pharmacy;

12 (B) the Department's third-party administrator shall
13 not change the terms of a contract between a third-party
14 administrator and a pharmacy without written approval by
15 the Department; and

16 (C) the Department's third-party administrator shall
17 not create, modify, implement, or indirectly establish any
18 fee on a pharmacy, pharmacist, or a recipient of medical
19 assistance without written approval by the Department.

20 (b) The provisions of this Section shall not apply to
21 outpatient pharmacy services provided by a health care facility
22 registered as a covered entity pursuant to 42 U.S.C. 256b or
23 any pharmacy owned by or contracted with the covered entity. A
24 Medicaid managed care organization shall, either directly or
25 through a pharmacy benefit manager, administer and reimburse
26 outpatient pharmacy claims submitted by a health care facility

1 registered as a covered entity pursuant to 42 U.S.C. 256b, its
2 owned pharmacies, and contracted pharmacies in accordance with
3 the contractual agreements the Medicaid managed care
4 organization or its pharmacy benefit manager has with such
5 facilities and pharmacies. Any pharmacy benefit manager that
6 contracts with a Medicaid managed care organization to
7 administer and reimburse pharmacy claims as provided in this
8 Section must be registered with the Director of Insurance in
9 accordance with Section 513b2 of the Illinois Insurance Code.

10 (c) On at least an annual basis, the Director of the
11 Department of Healthcare and Family Services shall submit a
12 report beginning no later than one year after the effective
13 date of this amendatory Act of the 101st General Assembly that
14 provides an update on any contract, contract issues, formulary,
15 dispensing fees, and maximum allowable cost concerns regarding
16 a third-party administrator and managed care. The requirement
17 for reporting to the General Assembly shall be satisfied by
18 filing copies of the report with the Speaker, the Minority
19 Leader, and the Clerk of the House of Representatives and with
20 the President, the Minority leader, and the Secretary of the
21 Senate. The Department shall take care that no proprietary
22 information is included in the report required under this
23 Section.

24 (d) A pharmacy benefit manager shall notify the Department
25 in writing of any activity, policy, or practice of the pharmacy
26 benefit manager that directly or indirectly presents a conflict

1 of interest that interferes with the discharge of the pharmacy
2 benefit manager's duty to a managed care organization to
3 exercise its contractual duties. "Conflict of interest" shall
4 be defined by rule by the Department.

5 (e) A pharmacy benefit manager shall, upon request,
6 disclose to the Department the following information:

7 (1) whether the pharmacy benefit manager has a
8 contract, agreement, or other arrangement with a
9 pharmaceutical manufacturer to exclusively dispense or
10 provide a drug to a managed care organization's enrollees,
11 and the aggregate amounts of consideration of economic
12 benefits collected or received pursuant to that
13 arrangement;

14 (2) the percentage of claims payments made by the
15 pharmacy benefit manager to pharmacies owned, managed, or
16 controlled by the pharmacy benefit manager or any of the
17 pharmacy benefit manager's management companies, parent
18 companies, subsidiary companies, or jointly held
19 companies;

20 (3) the aggregate amount of the fees or assessments
21 imposed on, or collected from, pharmacy providers; and

22 (4) the average annualized percentage of revenue
23 collected by the pharmacy benefit manager as a result of
24 each contract it has executed with a managed care
25 organization contracted by the Department to provide
26 medical assistance benefits which is not paid by the

1 pharmacy benefit manager to pharmacy providers and
2 pharmaceutical manufacturers or labelers or in order to
3 perform administrative functions pursuant to its contracts
4 with managed care organizations.

5 (f) The information disclosed under subsection (e) shall
6 include all retail, mail order, specialty, and compounded
7 prescription products. All information made available to the
8 Department under subsection (e) is confidential and not subject
9 to disclosure under the Freedom of Information Act. All
10 information made available to the Department under subsection
11 (e) shall not be reported or distributed in any way that
12 compromises its competitive, proprietary, or financial value.
13 The information shall only be used by the Department to assess
14 the contract, agreement, or other arrangements made between a
15 pharmacy benefit manager and a pharmacy provider,
16 pharmaceutical manufacturer or labeler, managed care
17 organization, or other entity, as applicable.

18 (g) A pharmacy benefit manager shall disclose directly in
19 writing to a pharmacy provider or pharmacy services
20 administrative organization contracting with the pharmacy
21 benefit manager of any material change to a contract provision
22 that affects the terms of the reimbursement, the process for
23 verifying benefits and eligibility, dispute resolution,
24 procedures for verifying drugs included on the formulary, and
25 contract termination at least 30 days prior to the date of the
26 change to the provision. The terms of this subsection shall be

1 deemed met if the pharmacy benefit manager posts the
2 information on a website, viewable by the public. A pharmacy
3 service administration organization shall notify all contract
4 pharmacies of any material change, as described in this
5 subsection, within 2 days of notification. As used in this
6 Section, "pharmacy services administrative organization" means
7 an entity operating within the State that contracts with
8 independent pharmacies to conduct business on their behalf with
9 third-party payers. A pharmacy services administrative
10 organization may provide administrative services to pharmacies
11 and negotiate and enter into contracts with third-party payers
12 or pharmacy benefit managers on behalf of pharmacies.

13 (h) A pharmacy benefit manager shall not include the
14 following in a contract with a pharmacy provider:

15 (1) a provision prohibiting the provider from
16 informing a patient of a less costly alternative to a
17 prescribed medication; or

18 (2) a provision that prohibits the provider from
19 dispensing a particular amount of a prescribed medication,
20 if the pharmacy benefit manager allows that amount to be
21 dispensed through a pharmacy owned or controlled by the
22 pharmacy benefit manager, unless the prescription drug is
23 subject to restricted distribution by the United States
24 Food and Drug Administration or requires special handling,
25 provider coordination, or patient education that cannot be
26 provided by a retail pharmacy.

1 (i) Nothing in this Section shall be construed to prohibit
2 a pharmacy benefit manager from requiring the same
3 reimbursement and terms and conditions for a pharmacy provider
4 as for a pharmacy owned, controlled, or otherwise associated
5 with the pharmacy benefit manager.

6 (j) A pharmacy benefit manager shall establish and
7 implement a process for the resolution of disputes arising out
8 of this Section, which shall be approved by the Department.

9 (k) The Department shall adopt rules establishing
10 reasonable dispensing fees for fee-for-service payments in
11 accordance with guidance or guidelines from the federal Centers
12 for Medicare and Medicaid Services.

13 Section 97. Severability. If any provision of this Act or
14 the application of this Act to any person or circumstance is
15 held invalid, the invalidity shall not affect other provisions
16 or applications of this Act which can be given effect without
17 the invalid provision or application, and to this end, the
18 provisions of this Act are declared severable.".