

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

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

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and regulations  
18 implementing federal or State law.

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

22 (b-5) Files, documents, and other data or databases  
23 maintained by one or more law enforcement agencies and

1 specifically designed to provide information to one or more  
2 law enforcement agencies regarding the physical or mental  
3 status of one or more individual subjects.

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

16 (d) Records in the possession of any public body  
17 created in the course of administrative enforcement  
18 proceedings, and any law enforcement or correctional  
19 agency for law enforcement purposes, but only to the extent  
20 that disclosure would:

21 (i) interfere with pending or actually and  
22 reasonably contemplated law enforcement proceedings  
23 conducted by any law enforcement or correctional  
24 agency that is the recipient of the request;

25 (ii) interfere with active administrative  
26 enforcement proceedings conducted by the public body

1           that is the recipient of the request;

2           (iii) create a substantial likelihood that a  
3 person will be deprived of a fair trial or an impartial  
4 hearing;

5           (iv) unavoidably disclose the identity of a  
6 confidential source, confidential information  
7 furnished only by the confidential source, or persons  
8 who file complaints with or provide information to  
9 administrative, investigative, law enforcement, or  
10 penal agencies; except that the identities of  
11 witnesses to traffic accidents, traffic accident  
12 reports, and rescue reports shall be provided by  
13 agencies of local government, except when disclosure  
14 would interfere with an active criminal investigation  
15 conducted by the agency that is the recipient of the  
16 request;

17           (v) disclose unique or specialized investigative  
18 techniques other than those generally used and known or  
19 disclose internal documents of correctional agencies  
20 related to detection, observation or investigation of  
21 incidents of crime or misconduct, and disclosure would  
22 result in demonstrable harm to the agency or public  
23 body that is the recipient of the request;

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

26           (vii) obstruct an ongoing criminal investigation

1 by the agency that is the recipient of the request.

2 (d-5) A law enforcement record created for law  
3 enforcement purposes and contained in a shared electronic  
4 record management system if the law enforcement agency that  
5 is the recipient of the request did not create the record,  
6 did not participate in or have a role in any of the events  
7 which are the subject of the record, and only has access to  
8 the record through the shared electronic record management  
9 system.

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

12 (e-5) Records requested by persons committed to the  
13 Department of Corrections, Department of Human Services  
14 Division of Mental Health, or a county jail if those  
15 materials are available in the library of the correctional  
16 institution or facility or jail where the inmate is  
17 confined.

18 (e-6) Records requested by persons committed to the  
19 Department of Corrections, Department of Human Services  
20 Division of Mental Health, or a county jail if those  
21 materials include records from staff members' personnel  
22 files, staff rosters, or other staffing assignment  
23 information.

24 (e-7) Records requested by persons committed to the  
25 Department of Corrections or Department of Human Services  
26 Division of Mental Health if those materials are available

1 through an administrative request to the Department of  
2 Corrections or Department of Human Services Division of  
3 Mental Health.

4 (e-8) Records requested by a person committed to the  
5 Department of Corrections, Department of Human Services  
6 Division of Mental Health, or a county jail, the disclosure  
7 of which would result in the risk of harm to any person or  
8 the risk of an escape from a jail or correctional  
9 institution or facility.

10 (e-9) Records requested by a person in a county jail or  
11 committed to the Department of Corrections or Department of  
12 Human Services Division of Mental Health, containing  
13 personal information pertaining to the person's victim or  
14 the victim's family, including, but not limited to, a  
15 victim's home address, home telephone number, work or  
16 school address, work telephone number, social security  
17 number, or any other identifying information, except as may  
18 be relevant to a requester's current or potential case or  
19 claim.

20 (e-10) Law enforcement records of other persons  
21 requested by a person committed to the Department of  
22 Corrections, Department of Human Services Division of  
23 Mental Health, or a county jail, including, but not limited  
24 to, arrest and booking records, mug shots, and crime scene  
25 photographs, except as these records may be relevant to the  
26 requester's current or potential case or claim.

1           (f) Preliminary drafts, notes, recommendations,  
2 memoranda and other records in which opinions are  
3 expressed, or policies or actions are formulated, except  
4 that a specific record or relevant portion of a record  
5 shall not be exempt when the record is publicly cited and  
6 identified by the head of the public body. The exemption  
7 provided in this paragraph (f) extends to all those records  
8 of officers and agencies of the General Assembly that  
9 pertain to the preparation of legislative documents.

10           (g) Trade secrets and commercial or financial  
11 information obtained from a person or business where the  
12 trade secrets or commercial or financial information are  
13 furnished under a claim that they are proprietary,  
14 privileged or confidential, and that disclosure of the  
15 trade secrets or commercial or financial information would  
16 cause competitive harm to the person or business, and only  
17 insofar as the claim directly applies to the records  
18 requested.

19           The information included under this exemption includes  
20 all trade secrets and commercial or financial information  
21 obtained by a public body, including a public pension fund,  
22 from a private equity fund or a privately held company  
23 within the investment portfolio of a private equity fund as  
24 a result of either investing or evaluating a potential  
25 investment of public funds in a private equity fund. The  
26 exemption contained in this item does not apply to the

1 aggregate financial performance information of a private  
2 equity fund, nor to the identity of the fund's managers or  
3 general partners. The exemption contained in this item does  
4 not apply to the identity of a privately held company  
5 within the investment portfolio of a private equity fund,  
6 unless the disclosure of the identity of a privately held  
7 company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be  
9 construed to prevent a person or business from consenting  
10 to disclosure.

11 (h) Proposals and bids for any contract, grant, or  
12 agreement, including information which if it were  
13 disclosed would frustrate procurement or give an advantage  
14 to any person proposing to enter into a contractor  
15 agreement with the body, until an award or final selection  
16 is made. Information prepared by or for the body in  
17 preparation of a bid solicitation shall be exempt until an  
18 award or final selection is made.

19 (i) Valuable formulae, computer geographic systems,  
20 designs, drawings and research data obtained or produced by  
21 any public body when disclosure could reasonably be  
22 expected to produce private gain or public loss. The  
23 exemption for "computer geographic systems" provided in  
24 this paragraph (i) does not extend to requests made by news  
25 media as defined in Section 2 of this Act when the  
26 requested information is not otherwise exempt and the only

1 purpose of the request is to access and disseminate  
2 information regarding the health, safety, welfare, or  
3 legal rights of the general public.

4 (j) The following information pertaining to  
5 educational matters:

6 (i) test questions, scoring keys and other  
7 examination data used to administer an academic  
8 examination;

9 (ii) information received by a primary or  
10 secondary school, college, or university under its  
11 procedures for the evaluation of faculty members by  
12 their academic peers;

13 (iii) information concerning a school or  
14 university's adjudication of student disciplinary  
15 cases, but only to the extent that disclosure would  
16 unavoidably reveal the identity of the student; and

17 (iv) course materials or research materials used  
18 by faculty members.

19 (k) Architects' plans, engineers' technical  
20 submissions, and other construction related technical  
21 documents for projects not constructed or developed in  
22 whole or in part with public funds and the same for  
23 projects constructed or developed with public funds,  
24 including but not limited to power generating and  
25 distribution stations and other transmission and  
26 distribution facilities, water treatment facilities,



1 airport facilities, sport stadiums, convention centers,  
2 and all government owned, operated, or occupied buildings,  
3 but only to the extent that disclosure would compromise  
4 security.

5 (l) Minutes of meetings of public bodies closed to the  
6 public as provided in the Open Meetings Act until the  
7 public body makes the minutes available to the public under  
8 Section 2.06 of the Open Meetings Act.

9 (m) Communications between a public body and an  
10 attorney or auditor representing the public body that would  
11 not be subject to discovery in litigation, and materials  
12 prepared or compiled by or for a public body in  
13 anticipation of a criminal, civil or administrative  
14 proceeding upon the request of an attorney advising the  
15 public body, and materials prepared or compiled with  
16 respect to internal audits of public bodies.

17 (n) Records relating to a public body's adjudication of  
18 employee grievances or disciplinary cases; however, this  
19 exemption shall not extend to the final outcome of cases in  
20 which discipline is imposed.

21 (o) Administrative or technical information associated  
22 with automated data processing operations, including but  
23 not limited to software, operating protocols, computer  
24 program abstracts, file layouts, source listings, object  
25 modules, load modules, user guides, documentation  
26 pertaining to all logical and physical design of

1 computerized systems, employee manuals, and any other  
2 information that, if disclosed, would jeopardize the  
3 security of the system or its data or the security of  
4 materials exempt under this Section.

5 (p) Records relating to collective negotiating matters  
6 between public bodies and their employees or  
7 representatives, except that any final contract or  
8 agreement shall be subject to inspection and copying.

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

12 (r) The records, documents, and information relating  
13 to real estate purchase negotiations until those  
14 negotiations have been completed or otherwise terminated.  
15 With regard to a parcel involved in a pending or actually  
16 and reasonably contemplated eminent domain proceeding  
17 under the Eminent Domain Act, records, documents and  
18 information relating to that parcel shall be exempt except  
19 as may be allowed under discovery rules adopted by the  
20 Illinois Supreme Court. The records, documents and  
21 information relating to a real estate sale shall be exempt  
22 until a sale is consummated.

23 (s) Any and all proprietary information and records  
24 related to the operation of an intergovernmental risk  
25 management association or self-insurance pool or jointly  
26 self-administered health and accident cooperative or pool.

1 Insurance or self insurance (including any  
2 intergovernmental risk management association or self  
3 insurance pool) claims, loss or risk management  
4 information, records, data, advice or communications.

5 (t) Information contained in or related to  
6 examination, operating, or condition reports prepared by,  
7 on behalf of, or for the use of a public body responsible  
8 for the regulation or supervision of financial  
9 institutions, ~~or~~ insurance companies, or pharmacy benefit  
10 managers, unless disclosure is otherwise required by State  
11 law.

12 (u) Information that would disclose or might lead to  
13 the disclosure of secret or confidential information,  
14 codes, algorithms, programs, or private keys intended to be  
15 used to create electronic or digital signatures under the  
16 Electronic Commerce Security Act.

17 (v) Vulnerability assessments, security measures, and  
18 response policies or plans that are designed to identify,  
19 prevent, or respond to potential attacks upon a community's  
20 population or systems, facilities, or installations, the  
21 destruction or contamination of which would constitute a  
22 clear and present danger to the health or safety of the  
23 community, but only to the extent that disclosure could  
24 reasonably be expected to jeopardize the effectiveness of  
25 the measures or the safety of the personnel who implement  
26 them or the public. Information exempt under this item may

1 include such things as details pertaining to the  
2 mobilization or deployment of personnel or equipment, to  
3 the operation of communication systems or protocols, or to  
4 tactical operations.

5 (w) (Blank).

6 (x) Maps and other records regarding the location or  
7 security of generation, transmission, distribution,  
8 storage, gathering, treatment, or switching facilities  
9 owned by a utility, by a power generator, or by the  
10 Illinois Power Agency.

11 (y) Information contained in or related to proposals,  
12 bids, or negotiations related to electric power  
13 procurement under Section 1-75 of the Illinois Power Agency  
14 Act and Section 16-111.5 of the Public Utilities Act that  
15 is determined to be confidential and proprietary by the  
16 Illinois Power Agency or by the Illinois Commerce  
17 Commission.

18 (z) Information about students exempted from  
19 disclosure under Sections 10-20.38 or 34-18.29 of the  
20 School Code, and information about undergraduate students  
21 enrolled at an institution of higher education exempted  
22 from disclosure under Section 25 of the Illinois Credit  
23 Card Marketing Act of 2009.

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

26 (bb) Records and information provided to a mortality

1 review team and records maintained by a mortality review  
2 team appointed under the Department of Juvenile Justice  
3 Mortality Review Team Act.

4 (cc) Information regarding interments, entombments, or  
5 inurnments of human remains that are submitted to the  
6 Cemetery Oversight Database under the Cemetery Care Act or  
7 the Cemetery Oversight Act, whichever is applicable.

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

12 (ee) The names, addresses, or other personal  
13 information of persons who are minors and are also  
14 participants and registrants in programs of park  
15 districts, forest preserve districts, conservation  
16 districts, recreation agencies, and special recreation  
17 associations.

18 (ff) The names, addresses, or other personal  
19 information of participants and registrants in programs of  
20 park districts, forest preserve districts, conservation  
21 districts, recreation agencies, and special recreation  
22 associations where such programs are targeted primarily to  
23 minors.

24 (gg) Confidential information described in Section  
25 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

26 (hh) The report submitted to the State Board of

1 Education by the School Security and Standards Task Force  
2 under item (8) of subsection (d) of Section 2-3.160 of the  
3 School Code and any information contained in that report.

4 (ii) Records requested by persons committed to or  
5 detained by the Department of Human Services under the  
6 Sexually Violent Persons Commitment Act or committed to the  
7 Department of Corrections under the Sexually Dangerous  
8 Persons Act if those materials: (i) are available in the  
9 library of the facility where the individual is confined;  
10 (ii) include records from staff members' personnel files,  
11 staff rosters, or other staffing assignment information;  
12 or (iii) are available through an administrative request to  
13 the Department of Human Services or the Department of  
14 Corrections.

15 (jj) Confidential information described in Section  
16 5-535 of the Civil Administrative Code of Illinois.

17 (1.5) Any information exempt from disclosure under the  
18 Judicial Privacy Act shall be redacted from public records  
19 prior to disclosure under this Act.

20 (2) A public record that is not in the possession of a  
21 public body but is in the possession of a party with whom the  
22 agency has contracted to perform a governmental function on  
23 behalf of the public body, and that directly relates to the  
24 governmental function and is not otherwise exempt under this  
25 Act, shall be considered a public record of the public body,  
26 for purposes of this Act.

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

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

8           (5 ILCS 140/7.5)

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

12           (a) All information determined to be confidential  
13 under Section 4002 of the Technology Advancement and  
14 Development Act.

15           (b) Library circulation and order records identifying  
16 library users with specific materials under the Library  
17 Records Confidentiality Act.

18           (c) Applications, related documents, and medical  
19 records received by the Experimental Organ Transplantation  
20 Procedures Board and any and all documents or other records  
21 prepared by the Experimental Organ Transplantation  
22 Procedures Board or its staff relating to applications it  
23 has received.

24           (d) Information and records held by the Department of  
25 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible  
2 disease or any information the disclosure of which is  
3 restricted under the Illinois Sexually Transmissible  
4 Disease Control Act.

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

7 (f) Firm performance evaluations under Section 55 of  
8 the Architectural, Engineering, and Land Surveying  
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted  
11 and exempted under Section 50 of the Illinois Prepaid  
12 Tuition Act.

13 (h) Information the disclosure of which is exempted  
14 under the State Officials and Employees Ethics Act, and  
15 records of any lawfully created State or local inspector  
16 general's office that would be exempt if created or  
17 obtained by an Executive Inspector General's office under  
18 that Act.

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

23 (j) Information and data concerning the distribution  
24 of surcharge moneys collected and remitted by carriers  
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information



1 or driver identification information compiled by a law  
2 enforcement agency or the Department of Transportation  
3 under Section 11-212 of the Illinois Vehicle Code.

4 (l) Records and information provided to a residential  
5 health care facility resident sexual assault and death  
6 review team or the Executive Council under the Abuse  
7 Prevention Review Team Act.

8 (m) Information provided to the predatory lending  
9 database created pursuant to Article 3 of the Residential  
10 Real Property Disclosure Act, except to the extent  
11 authorized under that Article.

12 (n) Defense budgets and petitions for certification of  
13 compensation and expenses for court appointed trial  
14 counsel as provided under Sections 10 and 15 of the Capital  
15 Crimes Litigation Act. This subsection (n) shall apply  
16 until the conclusion of the trial of the case, even if the  
17 prosecution chooses not to pursue the death penalty prior  
18 to trial or sentencing.

19 (o) Information that is prohibited from being  
20 disclosed under Section 4 of the Illinois Health and  
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,  
23 investigation reports, surveys, schedules, lists, data, or  
24 information compiled, collected, or prepared by or for the  
25 Regional Transportation Authority under Section 2.11 of  
26 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety  
2 Act.

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

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

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

9 (t) All identified or deidentified health information  
10 in the form of health data or medical records contained in,  
11 stored in, submitted to, transferred by, or released from  
12 the Illinois Health Information Exchange, and identified  
13 or deidentified health information in the form of health  
14 data and medical records of the Illinois Health Information  
15 Exchange in the possession of the Illinois Health  
16 Information Exchange Authority due to its administration  
17 of the Illinois Health Information Exchange. The terms  
18 "identified" and "deidentified" shall be given the same  
19 meaning as in the Health Insurance Portability and  
20 Accountability Act of 1996, Public Law 104-191, or any  
21 subsequent amendments thereto, and any regulations  
22 promulgated thereunder.

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

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under  
2 the Firearm Owners Identification Card Act or applied for  
3 or received a concealed carry license under the Firearm  
4 Concealed Carry Act, unless otherwise authorized by the  
5 Firearm Concealed Carry Act; and databases under the  
6 Firearm Concealed Carry Act, records of the Concealed Carry  
7 Licensing Review Board under the Firearm Concealed Carry  
8 Act, and law enforcement agency objections under the  
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is  
11 exempted from disclosure under subsection (g) of Section  
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure  
14 under Section 5-1014.3 of the Counties Code or Section  
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult  
17 Protective Services Act and its predecessor enabling  
18 statute, the Elder Abuse and Neglect Act, including  
19 information about the identity and administrative finding  
20 against any caregiver of a verified and substantiated  
21 decision of abuse, neglect, or financial exploitation of an  
22 eligible adult maintained in the Registry established  
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality  
25 review team or the Illinois Fatality Review Team Advisory  
26 Council under Section 15 of the Adult Protective Services

1 Act.

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

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

6 (cc) Recordings made under the Law Enforcement  
7 Officer-Worn Body Camera Act, except to the extent  
8 authorized under that Act.

9 (dd) Information that is prohibited from being  
10 disclosed under Section 45 of the Condominium and Common  
11 Interest Community Ombudsperson Act.

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

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

16 (gg) Information that is prohibited from being  
17 disclosed under Section 7-603.5 of the Illinois Vehicle  
18 Code.

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

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

24 (jj) Information and reports that are required to be  
25 submitted to the Department of Labor by registering day and  
26 temporary labor service agencies but are exempt from

1 disclosure under subsection (a-1) of Section 45 of the Day  
2 and Temporary Labor Services Act.

3 (kk) Information prohibited from disclosure under the  
4 Seizure and Forfeiture Reporting Act.

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

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

10 (nn) ~~(ll)~~ Information that is exempt from disclosure  
11 under Section 70 of the Higher Education Student Assistance  
12 Act.

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

16 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,  
17 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;  
18 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;  
19 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.  
20 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,  
21 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;  
22 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised  
23 10-12-18.)

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

1 (5 ILCS 375/6.11)

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

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

20 Rulemaking authority to implement Public Act 95-1045, if  
21 any, is conditioned on the rules being adopted in accordance  
22 with all provisions of the Illinois Administrative Procedure  
23 Act and all rules and procedures of the Joint Committee on  
24 Administrative Rules; any purported rule not so adopted, for  
25 whatever reason, is unauthorized.

1 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;  
2 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.  
3 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19;  
4 100-1170, eff. 6-1-19.)

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

7 (215 ILCS 5/Art. XXXIIB heading new)

8 ARTICLE XXXIIB. PHARMACY BENEFIT MANAGERS

9 (215 ILCS 5/513b1 new)

10 Sec. 513b1. Pharmacy benefit manager contracts.

11 (a) As used in this Section:

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

14 "Maximum allowable cost" means the maximum amount that a  
15 pharmacy benefit manager will reimburse a pharmacy for the cost  
16 of a drug.

17 "Maximum allowable cost list" means a list of drugs for  
18 which a maximum allowable cost has been established by a  
19 pharmacy benefit manager.

20 "Pharmacy benefit manager" means a person, business, or  
21 entity, including a wholly or partially owned or controlled  
22 subsidiary of a pharmacy benefit manager, that provides claims  
23 processing services or other prescription drug or device

1 services, or both, for health benefit plans.

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

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

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

9 (2) Maintain a process that will, in a timely manner,  
10 eliminate drugs from maximum allowable cost lists or modify  
11 drug prices to remain consistent with changes in pricing  
12 data used in formulating maximum allowable cost prices and  
13 product availability.

14 (3) Provide access to its maximum allowable cost list  
15 to each pharmacy or pharmacy services administrative  
16 organization subject to the maximum allowable cost list.  
17 Access may include a real-time pharmacy website portal to  
18 be able to view the maximum allowable cost list. As used in  
19 this Section, "pharmacy services administrative  
20 organization" means an entity operating within the State  
21 that contracts with independent pharmacies to conduct  
22 business on their behalf with third-party payers. A  
23 pharmacy services administrative organization may provide  
24 administrative services to pharmacies and negotiate and  
25 enter into contracts with third-party payers or pharmacy  
26 benefit managers on behalf of pharmacies.



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

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

10                   (B) A requirement that a pharmacy benefit manager  
11                   must respond to a challenge within 14 calendar days of  
12                   the contracted pharmacy making the claim for which the  
13                   appeal has been submitted.

14                   (C) A telephone number and e-mail address or  
15                   website to network providers, at which the provider can  
16                   contact the pharmacy benefit manager to process and  
17                   submit an appeal.

18                   (D) A requirement that, if an appeal is denied, the  
19                   pharmacy benefit manager must provide the reason for  
20                   the denial and the name and the national drug code  
21                   number from national or regional wholesalers.

22                   (E) A requirement that, if an appeal is sustained,  
23                   the pharmacy benefit manager must make an adjustment in  
24                   the drug price effective the date the challenge is  
25                   resolved and make the adjustment applicable to all  
26                   similarly situated network pharmacy providers, as

1 determined by the managed care organization or  
2 pharmacy benefit manager.

3 (5) Allow a plan sponsor contracting with a pharmacy  
4 benefit manager an annual right to audit compliance with  
5 the terms of the contract by the pharmacy benefit manager,  
6 including, but not limited to, full disclosure of any and  
7 all rebate amounts secured, whether product specific or  
8 generalized rebates, that were provided to the pharmacy  
9 benefit manager by a pharmaceutical manufacturer.

10 (6) Allow a plan sponsor contracting with a pharmacy  
11 benefit manager to request that the pharmacy benefit  
12 manager disclose the actual amounts paid by the pharmacy  
13 benefit manager to the pharmacy.

14 (7) Provide notice to the party contracting with the  
15 pharmacy benefit manager of any consideration that the  
16 pharmacy benefit manager receives from the manufacturer  
17 for dispense as written prescriptions once a generic or  
18 biologically similar product becomes available.

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

22 (1) if the drug is a generically equivalent drug, it is  
23 listed as therapeutically equivalent and pharmaceutically  
24 equivalent "A" or "B" rated in the United States Food and  
25 Drug Administration's most recent version of the "Orange  
26 Book" or have an NR or NA rating by Medi-Span, Gold

1 Standard, or a similar rating by a nationally recognized  
2 reference;

3 (2) the drug is available for purchase by each pharmacy  
4 in the State from national or regional wholesalers  
5 operating in Illinois; and

6 (3) the drug is not obsolete.

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

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

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

17 (2) the retail price of the drug in the absence of  
18 prescription drug coverage.

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

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

1       Sec. 513b2. Licensure requirements.

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

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

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

9           (3) A completed registration form adopted by the  
10 Director containing:

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

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

14       (b) The registrant shall report any change in information  
15 required under this Section to the Director in writing within  
16 60 days after the change occurs.

17       (c) Upon receipt of a completed registration form, the  
18 required documents, and the registration fee, the Director  
19 shall issue a registration certificate. The certificate may be  
20 in paper or electronic form, and shall clearly indicate the  
21 expiration date of the registration. Registration certificates  
22 are nontransferable.

23       (d) A registration certificate is valid for 2 years after  
24 its date of issue. The Director shall adopt by rule an initial  
25 registration fee not to exceed \$500 and a registration renewal  
26 fee not to exceed \$500, both of which shall be nonrefundable.

1 Total fees may not exceed the cost of administering this  
2 Section.

3 (e) The Department shall adopt any rules necessary to  
4 implement this Section.

5 (215 ILCS 5/513b3 new)

6 Sec. 513b3. Examination.

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

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

14 (c) The Director, or his or her designee, may administer  
15 oaths and thereafter examine the pharmacy benefit manager's  
16 designee, representative, or any officer or senior manager as  
17 listed on the license or registration certificate about the  
18 business of the pharmacy benefit manager.

19 (d) The examiners designated by the Director under this  
20 Section may make reports to the Director. Any report alleging  
21 substantive violations of this Article, any applicable  
22 provisions of this Code, or any applicable Part of Title 50 of  
23 the Illinois Administrative Code shall be in writing and be  
24 based upon facts obtained by the examiners. The report shall be  
25 verified by the examiners.

1       (e) If a report is made, the Director shall either deliver  
2       a duplicate report to the pharmacy benefit manager being  
3       examined or send such duplicate by certified or registered mail  
4       to the pharmacy benefit manager's address specified in the  
5       records of the Department. The Director shall afford the  
6       pharmacy benefit manager an opportunity to request a hearing to  
7       object to the report. The pharmacy benefit manager may request  
8       a hearing within 30 days after receipt of the duplicate report  
9       by giving the Director written notice of such request together  
10       with written objections to the report. Any hearing shall be  
11       conducted in accordance with Sections 402 and 403 of this Code.  
12       The right to a hearing is waived if the delivery of the report  
13       is refused or the report is otherwise undeliverable or the  
14       pharmacy benefit manager does not timely request a hearing.  
15       After the hearing or upon expiration of the time period during  
16       which a pharmacy benefit manager may request a hearing, if the  
17       examination reveals that the pharmacy benefit manager is  
18       operating in violation of any applicable provision of this  
19       Code, any applicable Part of Title 50 of the Illinois  
20       Administrative Code, a provision of this Article, or prior  
21       order, the Director, in the written order, may require the  
22       pharmacy benefit manager to take any action the Director  
23       considers necessary or appropriate in accordance with the  
24       report or examination hearing. If the Director issues an order,  
25       it shall be issued within 90 days after the report is filed, or  
26       if there is a hearing, within 90 days after the conclusion of

1 the hearing. The order is subject to review under the  
2 Administrative Review Law.

3 (215 ILCS 5/513b4 new)

4 Sec. 513b4. Denial, revocation, or suspension of  
5 registration; administrative fines.

6 (a) Denial of an application or suspension or revocation of  
7 a registration in accordance with this Section shall be by  
8 written order sent to the applicant or registrant by certified  
9 or registered mail at the address specified in the records of  
10 the Department. The written order shall state the grounds,  
11 charges, or conduct on which denial, suspension, or revocation  
12 is based. The applicant or registrant may in writing request a  
13 hearing within 30 days from the date of mailing. Upon receipt  
14 of a written request, the Director shall issue an order  
15 setting: (i) a specific time for the hearing, which may not be  
16 less than 20 nor more than 30 days after receipt of the  
17 request; and (ii) a specific place for the hearing, which may  
18 be in either the city of Springfield or in the county in  
19 Illinois where the applicant's or registrant's principal place  
20 of business is located. If no written request is received by  
21 the Director, such order shall be final upon the expiration of  
22 said 30 days.

23 (b) If the Director finds that one or more grounds exist  
24 for the revocation or suspension of a registration issued under  
25 this Article, the Director may, in lieu of or in addition to

1 such suspension or revocation, impose a fine upon the pharmacy  
2 benefit manager as provided under subsection (c).

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

9 (215 ILCS 5/513b5 new)

10 Sec. 513b5. Failure to register. Any pharmacy benefit  
11 manager that operates without a registration or fails to  
12 register with the Director and pay the fee prescribed by this  
13 Article is an unauthorized insurer as defined in Article VII of  
14 this Code and shall be subject to all penalties provided for  
15 therein.

16 (215 ILCS 5/513b6 new)

17 Sec. 513b6. Insurance Producer Administration Fund. All  
18 fees and fines paid to and collected by the Director under this  
19 Article shall be paid promptly after receipt thereof, together  
20 with a detailed statement of such fees, into the Insurance  
21 Producer Administration Fund. The moneys deposited into the  
22 Insurance Producer Administration Fund may be transferred to  
23 the Professions Indirect Cost Fund, as authorized under Section  
24 2105-300 of the Department of Professional Regulation Law of



1 the Civil Administrative Code of Illinois.

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

4 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

5 Sec. 5-3. Insurance Code provisions.

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

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

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

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

3           (3) a corporation organized under the laws of another  
4 state, 30% or more of the enrollees of which are residents  
5 of this State, except a corporation subject to  
6 substantially the same requirements in its state of  
7 organization as is a "domestic company" under Article VIII  
8 1/2 of the Illinois Insurance Code.

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

12           (1) the Director shall give primary consideration to  
13 the continuation of benefits to enrollees and the financial  
14 conditions of the acquired Health Maintenance Organization  
15 after the merger, consolidation, or other acquisition of  
16 control takes effect;

17           (2) (i) the criteria specified in subsection (1) (b) of  
18 Section 131.8 of the Illinois Insurance Code shall not  
19 apply and (ii) the Director, in making his determination  
20 with respect to the merger, consolidation, or other  
21 acquisition of control, need not take into account the  
22 effect on competition of the merger, consolidation, or  
23 other acquisition of control;

24           (3) the Director shall have the power to require the  
25 following information:

26           (A) certification by an independent actuary of the

1           adequacy of the reserves of the Health Maintenance  
2           Organization sought to be acquired;

3           (B) pro forma financial statements reflecting the  
4           combined balance sheets of the acquiring company and  
5           the Health Maintenance Organization sought to be  
6           acquired as of the end of the preceding year and as of  
7           a date 90 days prior to the acquisition, as well as pro  
8           forma financial statements reflecting projected  
9           combined operation for a period of 2 years;

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

14          (D) such other information as the Director shall  
15          require.

16          (d) The provisions of Article VIII 1/2 of the Illinois  
17          Insurance Code and this Section 5-3 shall apply to the sale by  
18          any health maintenance organization of greater than 10% of its  
19          enrollee population (including without limitation the health  
20          maintenance organization's right, title, and interest in and to  
21          its health care certificates).

22          (e) In considering any management contract or service  
23          agreement subject to Section 141.1 of the Illinois Insurance  
24          Code, the Director (i) shall, in addition to the criteria  
25          specified in Section 141.2 of the Illinois Insurance Code, take  
26          into account the effect of the management contract or service

1 agreement on the continuation of benefits to enrollees and the  
2 financial condition of the health maintenance organization to  
3 be managed or serviced, and (ii) need not take into account the  
4 effect of the management contract or service agreement on  
5 competition.

6 (f) Except for small employer groups as defined in the  
7 Small Employer Rating, Renewability and Portability Health  
8 Insurance Act and except for medicare supplement policies as  
9 defined in Section 363 of the Illinois Insurance Code, a Health  
10 Maintenance Organization may by contract agree with a group or  
11 other enrollment unit to effect refunds or charge additional  
12 premiums under the following terms and conditions:

13 (i) the amount of, and other terms and conditions with  
14 respect to, the refund or additional premium are set forth  
15 in the group or enrollment unit contract agreed in advance  
16 of the period for which a refund is to be paid or  
17 additional premium is to be charged (which period shall not  
18 be less than one year); and

19 (ii) the amount of the refund or additional premium  
20 shall not exceed 20% of the Health Maintenance  
21 Organization's profitable or unprofitable experience with  
22 respect to the group or other enrollment unit for the  
23 period (and, for purposes of a refund or additional  
24 premium, the profitable or unprofitable experience shall  
25 be calculated taking into account a pro rata share of the  
26 Health Maintenance Organization's administrative and

1 marketing expenses, but shall not include any refund to be  
2 made or additional premium to be paid pursuant to this  
3 subsection (f)). The Health Maintenance Organization and  
4 the group or enrollment unit may agree that the profitable  
5 or unprofitable experience may be calculated taking into  
6 account the refund period and the immediately preceding 2  
7 plan years.

8 The Health Maintenance Organization shall include a  
9 statement in the evidence of coverage issued to each enrollee  
10 describing the possibility of a refund or additional premium,  
11 and upon request of any group or enrollment unit, provide to  
12 the group or enrollment unit a description of the method used  
13 to calculate (1) the Health Maintenance Organization's  
14 profitable experience with respect to the group or enrollment  
15 unit and the resulting refund to the group or enrollment unit  
16 or (2) the Health Maintenance Organization's unprofitable  
17 experience with respect to the group or enrollment unit and the  
18 resulting additional premium to be paid by the group or  
19 enrollment unit.

20 In no event shall the Illinois Health Maintenance  
21 Organization Guaranty Association be liable to pay any  
22 contractual obligation of an insolvent organization to pay any  
23 refund authorized under this Section.

24 (g) Rulemaking authority to implement Public Act 95-1045,  
25 if any, is conditioned on the rules being adopted in accordance  
26 with all provisions of the Illinois Administrative Procedure

1 Act and all rules and procedures of the Joint Committee on  
2 Administrative Rules; any purported rule not so adopted, for  
3 whatever reason, is unauthorized.

4 (Source: P.A. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;  
5 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1026, eff.  
6 8-22-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised  
7 10-4-18.)

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

10 (215 ILCS 134/10)

11 Sec. 10. Definitions.

12 "Adverse determination" means a determination by a health  
13 care plan under Section 45 or by a utilization review program  
14 under Section 85 that a health care service is not medically  
15 necessary.

16 "Clinical peer" means a health care professional who is in  
17 the same profession and the same or similar specialty as the  
18 health care provider who typically manages the medical  
19 condition, procedures, or treatment under review.

20 "Department" means the Department of Insurance.

21 "Emergency medical condition" means a medical condition  
22 manifesting itself by acute symptoms of sufficient severity,  
23 regardless of the final diagnosis given, ~~(including, but not~~  
24 ~~limited to, severe pain)~~ such that a prudent layperson, who

1 possesses an average knowledge of health and medicine, could  
2 reasonably expect the absence of immediate medical attention to  
3 result in:

4 (1) placing the health of the individual (or, with  
5 respect to a pregnant woman, the health of the woman or her  
6 unborn child) in serious jeopardy;

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

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

9 (4) inadequately controlled pain; or

10 (5) with respect to a pregnant woman who is having  
11 contractions:

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

14 (B) a transfer to another hospital may pose a  
15 threat to the health or safety of the woman or unborn  
16 child.

17 "Emergency medical screening examination" means a medical  
18 screening examination and evaluation by a physician licensed to  
19 practice medicine in all its branches, or to the extent  
20 permitted by applicable laws, by other appropriately licensed  
21 personnel under the supervision of or in collaboration with a  
22 physician licensed to practice medicine in all its branches to  
23 determine whether the need for emergency services exists.

24 "Emergency services" means, with respect to an enrollee of  
25 a health care plan, transportation services, including but not  
26 limited to ambulance services, and covered inpatient and

1 outpatient hospital services furnished by a provider qualified  
2 to furnish those services that are needed to evaluate or  
3 stabilize an emergency medical condition. "Emergency services"  
4 does not refer to post-stabilization medical services.

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

7 "Health care plan" means a plan, including, but not limited  
8 to, a health maintenance organization, a managed care community  
9 network as defined in the Illinois Public Aid Code, or an  
10 accountable care entity as defined in the Illinois Public Aid  
11 Code that receives capitated payments to cover medical services  
12 from the Department of Healthcare and Family Services, that  
13 establishes, operates, or maintains a network of health care  
14 providers that has entered into an agreement with the plan to  
15 provide health care services to enrollees to whom the plan has  
16 the ultimate obligation to arrange for the provision of or  
17 payment for services through organizational arrangements for  
18 ongoing quality assurance, utilization review programs, or  
19 dispute resolution. Nothing in this definition shall be  
20 construed to mean that an independent practice association or a  
21 physician hospital organization that subcontracts with a  
22 health care plan is, for purposes of that subcontract, a health  
23 care plan.

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

26 (1) indemnity health insurance policies including



1 those using a contracted provider network;

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

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

6 (4) employee or employer self-insured health benefit  
7 plans under the federal Employee Retirement Income  
8 Security Act of 1974;

9 (5) health care provided pursuant to the Workers'  
10 Compensation Act or the Workers' Occupational Diseases  
11 Act; and

12 (6) not-for-profit voluntary health services plans  
13 with health maintenance organization authority in  
14 existence as of January 1, 1999 that are affiliated with a  
15 union and that only extend coverage to union members and  
16 their dependents.

17 "Health care professional" means a physician, a registered  
18 professional nurse, or other individual appropriately licensed  
19 or registered to provide health care services.

20 "Health care provider" means any physician, hospital  
21 facility, facility licensed under the Nursing Home Care Act,  
22 long-term care facility as defined in Section 1-113 of the  
23 Nursing Home Care Act, or other person that is licensed or  
24 otherwise authorized to deliver health care services. Nothing  
25 in this Act shall be construed to define Independent Practice  
26 Associations or Physician-Hospital Organizations as health

1 care providers.

2 "Health care services" means any services included in the  
3 furnishing to any individual of medical care, or the  
4 hospitalization incident to the furnishing of such care, as  
5 well as the furnishing to any person of any and all other  
6 services for the purpose of preventing, alleviating, curing, or  
7 healing human illness or injury including home health and  
8 pharmaceutical services and products.

9 "Medical director" means a physician licensed in any state  
10 to practice medicine in all its branches appointed by a health  
11 care plan.

12 "Person" means a corporation, association, partnership,  
13 limited liability company, sole proprietorship, or any other  
14 legal entity.

15 "Physician" means a person licensed under the Medical  
16 Practice Act of 1987.

17 "Post-stabilization medical services" means health care  
18 services provided to an enrollee that are furnished in a  
19 licensed hospital by a provider that is qualified to furnish  
20 such services, and determined to be medically necessary and  
21 directly related to the emergency medical condition following  
22 stabilization.

23 "Stabilization" means, with respect to an emergency  
24 medical condition, to provide such medical treatment of the  
25 condition as may be necessary to assure, within reasonable  
26 medical probability, that no material deterioration of the

1 condition is likely to result.

2 "Utilization review" means the evaluation of the medical  
3 necessity, appropriateness, and efficiency of the use of health  
4 care services, procedures, and facilities.

5 "Utilization review program" means a program established  
6 by a person to perform utilization review.

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

9 (215 ILCS 134/30)

10 Sec. 30. Prohibitions.

11 (a) No health care plan or its subcontractors may prohibit  
12 or discourage health care providers by contract or policy from  
13 discussing any health care services and health care providers,  
14 utilization review and quality assurance policies, terms and  
15 conditions of plans and plan policy with enrollees, prospective  
16 enrollees, providers, or the public.

17 (b) No health care plan by contract, written policy, or  
18 procedure may permit or allow an individual or entity to  
19 dispense a different drug in place of the drug or brand of drug  
20 ordered or prescribed without the express permission of the  
21 person ordering or prescribing the drug, except as provided  
22 under Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

23 (c) No health care plan or its subcontractors may by  
24 contract, written policy, procedure, or otherwise mandate or  
25 require an enrollee to substitute his or her participating

1 primary care physician under the plan during inpatient  
2 hospitalization, such as with a hospitalist physician licensed  
3 to practice medicine in all its branches, without the agreement  
4 of that enrollee's participating primary care physician.  
5 "Participating primary care physician" for health care plans  
6 and subcontractors that do not require coordination of care by  
7 a primary care physician means the participating physician  
8 treating the patient. All health care plans shall inform  
9 enrollees of any policies, recommendations, or guidelines  
10 concerning the substitution of the enrollee's primary care  
11 physician when hospitalization is necessary in the manner set  
12 forth in subsections (d) and (e) of Section 15.

13 (d) A health care plan shall apply any third-party  
14 payments, financial assistance, discount, product vouchers, or  
15 any other reduction in out-of-pocket expenses made by or on  
16 behalf of such insured for prescription drugs toward a covered  
17 individual's deductible, copay, or cost-sharing  
18 responsibility, or out-of-pocket maximum associated with the  
19 individual's health insurance.

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

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

23 Section 25. The Pharmacy Practice Act is amended by adding  
24 Section 42 as follows:

1 (225 ILCS 85/42 new)

2 Sec. 42. Information disclosure. A pharmacist or her or his  
3 authorized employee must inform customers of a less expensive,  
4 generically equivalent drug product for her or his prescription  
5 and whether the cost-sharing obligation to the customer exceeds  
6 the retail price of the prescription in the absence of  
7 prescription drug coverage.

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

10 (305 ILCS 5/5-36 new)

11 Sec. 5-36. Pharmacy benefits.

12 (a) (1) The Department may enter into a contract with a  
13 third party on a fee-for-service reimbursement model for the  
14 purpose of administering pharmacy benefits as provided in this  
15 Section for members not enrolled in a Medicaid managed care  
16 organization; however, these services shall be approved by the  
17 Department. The Department shall ensure coordination of care  
18 between the third-party administrator and managed care  
19 organizations as a consideration in any contracts established  
20 in accordance with this Section. Any managed care techniques,  
21 principles, or administration of benefits utilized in  
22 accordance with this subsection shall comply with State law.

23 (2) The following shall apply to contracts between entities  
24 contracting relating to the Department's third-party

1 administrators and pharmacies:

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

4 (B) the Department's third-party administrator shall  
5 not change the terms of a contract between a third-party  
6 administrator and a pharmacy without written approval by  
7 the Department; and

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

12 (b) The provisions of this Section shall not apply to  
13 outpatient pharmacy services provided by a health care facility  
14 registered as a covered entity pursuant to 42 U.S.C. 256b or  
15 any pharmacy owned by or contracted with the covered entity. A  
16 Medicaid managed care organization shall, either directly or  
17 through a pharmacy benefit manager, administer and reimburse  
18 outpatient pharmacy claims submitted by a health care facility  
19 registered as a covered entity pursuant to 42 U.S.C. 256b, its  
20 owned pharmacies, and contracted pharmacies in accordance with  
21 the contractual agreements the Medicaid managed care  
22 organization or its pharmacy benefit manager has with such  
23 facilities and pharmacies. Any pharmacy benefit manager that  
24 contracts with a Medicaid managed care organization to  
25 administer and reimburse pharmacy claims as provided in this  
26 Section must be registered with the Director of Insurance in

1 accordance with Section 513b2 of the Illinois Insurance Code.

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

16 (d) A pharmacy benefit manager shall notify the Department  
17 in writing of any activity, policy, or practice of the pharmacy  
18 benefit manager that directly or indirectly presents a conflict  
19 of interest that interferes with the discharge of the pharmacy  
20 benefit manager's duty to a managed care organization to  
21 exercise its contractual duties. "Conflict of interest" shall  
22 be defined by rule by the Department.

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

25 (1) whether the pharmacy benefit manager has a  
26 contract, agreement, or other arrangement with a

1 pharmaceutical manufacturer to exclusively dispense or  
2 provide a drug to a managed care organization's enrollees,  
3 and the aggregate amounts of consideration of economic  
4 benefits collected or received pursuant to that  
5 arrangement;

6 (2) the percentage of claims payments made by the  
7 pharmacy benefit manager to pharmacies owned, managed, or  
8 controlled by the pharmacy benefit manager or any of the  
9 pharmacy benefit manager's management companies, parent  
10 companies, subsidiary companies, or jointly held  
11 companies;

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

14 (4) the average annualized percentage of revenue  
15 collected by the pharmacy benefit manager as a result of  
16 each contract it has executed with a managed care  
17 organization contracted by the Department to provide  
18 medical assistance benefits which is not paid by the  
19 pharmacy benefit manager to pharmacy providers and  
20 pharmaceutical manufacturers or labelers or in order to  
21 perform administrative functions pursuant to its contracts  
22 with managed care organizations.

23 (f) The information disclosed under subsection (e) shall  
24 include all retail, mail order, specialty, and compounded  
25 prescription products. All information made available to the  
26 Department under subsection (e) is confidential and not subject



1 to disclosure under the Freedom of Information Act. All  
2 information made available to the Department under subsection  
3 (e) shall not be reported or distributed in any way that  
4 compromises its competitive, proprietary, or financial value.  
5 The information shall only be used by the Department to assess  
6 the contract, agreement, or other arrangements made between a  
7 pharmacy benefit manager and a pharmacy provider,  
8 pharmaceutical manufacturer or labeler, managed care  
9 organization, or other entity, as applicable.

10 (g) A pharmacy benefit manager shall disclose directly in  
11 writing to a pharmacy provider or pharmacy services  
12 administrative organization contracting with the pharmacy  
13 benefit manager of any material change to a contract provision  
14 that affects the terms of the reimbursement, the process for  
15 verifying benefits and eligibility, dispute resolution,  
16 procedures for verifying drugs included on the formulary, and  
17 contract termination at least 30 days prior to the date of the  
18 change to the provision. The terms of this subsection shall be  
19 deemed met if the pharmacy benefit manager posts the  
20 information on a website, viewable by the public. A pharmacy  
21 service administration organization shall notify all contract  
22 pharmacies of any material change, as described in this  
23 subsection, within 2 days of notification. As used in this  
24 Section, "pharmacy services administrative organization" means  
25 an entity operating within the State that contracts with  
26 independent pharmacies to conduct business on their behalf with

1 third-party payers. A pharmacy services administrative  
2 organization may provide administrative services to pharmacies  
3 and negotiate and enter into contracts with third-party payers  
4 or pharmacy benefit managers on behalf of pharmacies.

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

7 (1) a provision prohibiting the provider from  
8 informing a patient of a less costly alternative to a  
9 prescribed medication; or

10 (2) a provision that prohibits the provider from  
11 dispensing a particular amount of a prescribed medication,  
12 if the pharmacy benefit manager allows that amount to be  
13 dispensed through a pharmacy owned or controlled by the  
14 pharmacy benefit manager, unless the prescription drug is  
15 subject to restricted distribution by the United States  
16 Food and Drug Administration or requires special handling,  
17 provider coordination, or patient education that cannot be  
18 provided by a retail pharmacy.

19 (i) Nothing in this Section shall be construed to prohibit  
20 a pharmacy benefit manager from requiring the same  
21 reimbursement and terms and conditions for a pharmacy provider  
22 as for a pharmacy owned, controlled, or otherwise associated  
23 with the pharmacy benefit manager.

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

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

5           Section 97. Severability. If any provision of this Act or  
6       the application of this Act to any person or circumstance is  
7       held invalid, the invalidity shall not affect other provisions  
8       or applications of this Act which can be given effect without  
9       the invalid provision or application, and to this end, the  
10       provisions of this Act are declared severable.