



Sen. Dan Kotowski

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09500SB2534sam001

LRB095 16871 AMC 46790 a

1 AMENDMENT TO SENATE BILL 2534

2 AMENDMENT NO. _____. Amend Senate Bill 2534 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Health Plan Consumer Protection and Ethics Act.

6 Section 10. Purpose. The purpose of this Act is to make it
7 illegal to engage in unethical health care professional
8 reimbursement practices that create a conflict of interest on
9 the part of the provider with respect to patient care. This Act
10 is intended to specify those categories of reimbursement and
11 incentive compensation that are considered inappropriate and
12 are thus consider illegal in this State.

13 Section 15. Definitions. As used in this Act:

14 "Healthcare insurance company" means a provider of health
15 insurance that pays specified sums for benefits or treatments.

1 "Pharmacy benefit manager" is an organization that
2 provides administrative services in processing and analyzing
3 prescription claims for pharmacy benefit and coverage
4 programs. "Pharmacy benefit manager" services may include
5 contracting with a network of pharmacies; establishing payment
6 levels for provider pharmacies; negotiating rebate
7 arrangements; developing and managing formularies, preferred
8 drug lists, and prior authorization programs; maintaining
9 patient compliance programs; performing drug utilization
10 review; and operating disease management programs. A "pharmacy
11 benefit manager" may operate mail order pharmacies or have
12 arrangements to include prescription availability through mail
13 order pharmacies.

14 Section 20. Application of Act; exclusions.

15 (a) This Act shall apply to all health insurance companies,
16 pharmacy benefit managers, or other entities acting on behalf
17 of one of these entities or on its own behalf.

18 (b) No other law of this State setting language
19 simplification standards shall apply to any incentives to
20 health care professionals.

21 Section 25. Unlawful acts. It shall be unlawful for a
22 health plan, pharmacy benefit manager, pharmaceutical benefit
23 manager, or other entity acting on behalf of one of these
24 entities or on its own behalf to engage in the following

1 practices:

2 (a) pay a physician or other health care professional
3 to prescribe a specific medication or type of medication;

4 (b) pay a physician, pharmacist, or other health care
5 professional to switch a stable patient from one medication
6 to another specific medication or type of medication;

7 (c) provide financial incentives to prescribe a
8 specific medication or type of medication;

9 (d) provide a cash bonus or other reward to a physician
10 or other health care professional for compliance with
11 health plan guidelines for medications to be used;

12 (e) withhold a portion of a physician's or other health
13 care professional's compensation or financially penalize a
14 healthcare provider in some other way for failure to comply
15 with specific medication use mandates;

16 (f) provide an incentive or induce a physician or other
17 health care professional to prescribe a specific
18 medication or type of medication; or

19 (g) engage in any other activity that may be viewed as
20 a kickback for prescribing a specific medication or type of
21 medication.

22 Section 30. Reporting requirements. The following
23 information must be submitted to the Attorney General on a
24 quarterly basis:

25 (a) Information that must be submitted by health plans,

1 pharmacy benefit managers, pharmaceutical companies, or
2 their agents must include any financial payments or
3 incentives to physicians or other health care
4 professionals that may be an inducement to prescribe a
5 specific medication or type of medication.

6 (b) Information to be reported by physicians or other
7 health care professionals licensed to prescribe must
8 include any payments or financial inducement to prescribe a
9 specific medication or class of medications. This shall not
10 include regular compensation that is paid for the health
11 care or consulting services of a physician, unless it is
12 tied to the prescribing of a specific medication or set of
13 medications.

14 (c) Information to be reported by pharmacists and
15 others licensed to dispense medications must include any
16 payments or financial inducements to seek the switching of
17 one medication to another different medication.

18 Section 35. Grievances. Patients or other members of the
19 public may file grievances with the Attorney General for
20 violations of this Act for further investigation.

21 Section 40. Penalties. Providing prohibited incentives to
22 health care providers pursuant to this Act is punishable by a
23 fine not to exceed \$25,000 and is a violation of the Consumer
24 Fraud and Deceptive Business Practices Act.

1 Section 90. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2Z as follows:

3 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

4 (Text of Section before amendment by P.A. 95-562)

5 Sec. 2Z. Violations of other Acts. Any person who knowingly
6 violates the Automotive Repair Act, the Automotive Collision
7 Repair Act, the Home Repair and Remodeling Act, the Dance
8 Studio Act, the Physical Fitness Services Act, the Hearing
9 Instrument Consumer Protection Act, the Illinois Union Label
10 Act, the Job Referral and Job Listing Services Consumer
11 Protection Act, the Travel Promotion Consumer Protection Act,
12 the Credit Services Organizations Act, the Automatic Telephone
13 Dialers Act, the Pay-Per-Call Services Consumer Protection
14 Act, the Telephone Solicitations Act, the Illinois Funeral or
15 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
16 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
17 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
18 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
19 Act, the Payday Loan Reform Act, subsection (a) or (b) of
20 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
21 Act, the Internet Caller Identification Act, paragraph (6) of
22 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
23 Article 3 of the Residential Real Property Disclosure Act, the
24 Automatic Contract Renewal Act, ~~or~~ the Personal Information

1 Protection Act, or the Health Plan Consumer Protection and
2 Ethics Act commits an unlawful practice within the meaning of
3 this Act.

4 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
5 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
6 eff. 1-1-08.)

7 (Text of Section after amendment by P.A. 95-562)

8 Sec. 2Z. Violations of other Acts. Any person who knowingly
9 violates the Automotive Repair Act, the Automotive Collision
10 Repair Act, the Home Repair and Remodeling Act, the Dance
11 Studio Act, the Physical Fitness Services Act, the Hearing
12 Instrument Consumer Protection Act, the Illinois Union Label
13 Act, the Job Referral and Job Listing Services Consumer
14 Protection Act, the Travel Promotion Consumer Protection Act,
15 the Credit Services Organizations Act, the Automatic Telephone
16 Dialers Act, the Pay-Per-Call Services Consumer Protection
17 Act, the Telephone Solicitations Act, the Illinois Funeral or
18 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
19 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
20 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
21 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
22 Act, the Payday Loan Reform Act, subsection (a) or (b) of
23 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
24 Act, the Internet Caller Identification Act, paragraph (6) of
25 subsection (k) of Section 6-305 of the Illinois Vehicle Code,

1 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the
2 Illinois Vehicle Code, Article 3 of the Residential Real
3 Property Disclosure Act, the Automatic Contract Renewal Act, ~~or~~
4 the Personal Information Protection Act, or the Health Plan
5 Consumer Protection and Ethics Act commits an unlawful practice
6 within the meaning of this Act.

7 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
8 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
9 eff. 1-1-08; 95-562, eff. 7-1-08; revised 10-17-07.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."