

*As Amended by Senate Committee*

*Session of 2018*

**SENATE BILL No. 351**

By Committee on Public Health and Welfare

2-1

1 AN ACT concerning health and healthcare; relating to insurance;  
2 pharmacy benefits; enacting the Kansas pharmacy patients fair  
3 practices act.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) This section shall be known and may be cited as the  
7 Kansas pharmacy patients fair practices act.

8 (b) As used in this section:

9 ~~(1) "Commissioner" means the commissioner of insurance.~~

10 ~~(2) "Covered entity" means the same as defined in K.S.A. 2017 Supp.~~  
11 ~~40-3822, and amendments thereto, but does not include a managed care~~  
12 ~~organization contracted to provide state medicaid services under the~~  
13 ~~Kansas medical assistance program.~~

14 ~~(3) (1) "Covered person" means the same as defined in K.S.A. 2017~~  
15 ~~Supp. 40-3822, and amendments thereto.~~

16 ~~(2) "**Health carrier**" means the same as defined in K.S.A. 2017~~  
17 ~~**Supp. 40-2,195, and amendments thereto.**~~

18 ~~(4) "Pharmacy benefits management" means the same as defined in~~  
19 ~~K.S.A. 2017 Supp. 40-3822, and amendments thereto.~~

20 ~~(5) (3) "Pharmacy benefits manager" means the same as defined in~~  
21 ~~K.S.A. 2017 Supp. 40-3822, and amendments thereto.~~

22 ~~(6) "Practice of pharmacy" means the same as defined in K.S.A. 65-~~  
23 ~~1626a, and amendments thereto.~~

24 ~~(c) (1) A pharmacy benefits manager shall not charge or collect from~~  
25 ~~a covered person a cost-sharing requirement for a prescription or~~  
26 ~~pharmacy service that exceeds the amount retained by the pharmacist or~~  
27 ~~pharmacy from all payment sources for filling the prescription or~~  
28 ~~providing the service.~~

29 ~~(2) A pharmacy benefits manager shall not prohibit a pharmacist or~~  
30 ~~pharmacy from:~~

31 ~~(A) Informing a covered person of the difference between the covered~~  
32 ~~person's cost sharing requirement for a prescription drug and the amount~~  
33 ~~the covered person would pay if the covered person did not use a health~~  
34 ~~benefit plan to cover the cost; or~~

35 ~~(B) selling a prescription drug to a covered person who chooses not~~  
36 ~~to use a health benefit plan to cover the cost.~~

1       ~~(3) A pharmacy benefits manager shall not restrict or interfere with a~~  
2 ~~pharmacist's ability to engage in the practice of pharmacy, including~~  
3 ~~engaging in pharmacist-patient communications with a covered person and~~  
4 ~~discussing alternative drug options.~~

5       ~~(4) A pharmacy benefits manager shall not reduce reimbursement~~  
6 ~~after a claim has been adjudicated or charge or hold a pharmacist or~~  
7 ~~pharmacy responsible for any fee that is related to a claim, unless the~~  
8 ~~amount of the reduction or fee can be determined and has been disclosed~~  
9 ~~to the pharmacist or pharmacy at the time of the claim's adjudication.~~

10       ~~(5) A pharmacy benefits manager shall not prohibit or otherwise~~  
11 ~~restrict a pharmacist or pharmacy from offering prescription delivery~~  
12 ~~services to a covered person.~~

13       ~~(6) A pharmacy benefits manager shall not:~~

14       ~~(A) Require a covered person to obtain prescription drugs from a mail~~  
15 ~~service pharmacy or through the mail or other common carrier; or~~

16       ~~(B) impose an additional cost-sharing requirement, fee, limitation on~~  
17 ~~benefits or other condition or requirement on a covered person who~~  
18 ~~obtains a prescription from a retail network pharmacy instead of through a~~  
19 ~~mail service pharmacy.~~

20       ~~(7) A pharmacy benefits manager shall not restrict a covered person's~~  
21 ~~ability to access prescription medications available at network pharmacies,~~  
22 ~~as defined in K.S.A. 2017 Supp. 40-3829, and amendments thereto.~~

23       ~~(d) The commissioner shall adopt rules and regulations as may be~~  
24 ~~necessary to implement and administer this section. The commissioner~~  
25 ~~shall have the power to examine a pharmacy benefits manager if the~~  
26 ~~commissioner has cause to believe that any provision of this section has~~  
27 ~~been violated by the pharmacy benefits manager. The commissioner may~~  
28 ~~impose a civil fine or suspend or revoke the certificate of registration of a~~  
29 ~~pharmacy benefits manager upon finding that the pharmacy benefits~~  
30 ~~manager has violated this section. Any administrative action taken under~~  
31 ~~this section shall be in accordance with the Kansas administrative~~  
32 ~~procedure act and reviewable in accordance with the Kansas judicial~~  
33 ~~review act.~~

34       ~~(e) The provisions of this section are severable, and if any provision~~  
35 ~~of this section or the application thereof to any person or circumstance is~~  
36 ~~held invalid, such invalidity shall not affect other provisions or~~  
37 ~~applications of this section that can be given effect without the invalid~~  
38 ~~provision or application.~~

39       ~~*(c) (1) Co-payments applied by a health carrier for a prescription*~~  
40 ~~*drug may not exceed the total submitted charges by the network*~~  
41 ~~*pharmacy.*~~

42       ~~*(2) A pharmacy or pharmacist shall have the right to provide a*~~  
43 ~~*covered person with information regarding the amount of the covered*~~

1 *person's cost share for a prescription drug. Neither a pharmacy nor a*  
2 *pharmacist shall be proscribed by a pharmacy benefits manager from*  
3 *discussing any such information or for selling a more affordable*  
4 *alternative to the covered person if such an alternative is available.*

5 (⊕) (d) This section applies to any contract between a pharmacy  
6 benefits manager and a pharmacy, a pharmacy services administration  
7 organization or a group purchasing organization that is entered into or  
8 renewed on and after ~~July 1, 2018~~ **January 1, 2019**.

9 Sec. 2. This act shall take effect and be in force from and after its  
10 publication in the statute book.