

**SENATE BILL No. 351**

By Committee on Public Health and Welfare

2-1

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

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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 ~~(e) (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~~

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

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

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

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

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

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

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

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

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

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

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

1       ***(2) A pharmacy or pharmacist shall have the right to provide a***  
2 ***covered person with information regarding the amount of the covered***  
3 ***person's cost share for a prescription drug. Neither a pharmacy nor a***  
4 ***pharmacist shall be proscribed by a pharmacy benefits manager from***  
5 ***discussing any such information or for selling a more affordable***  
6 ***alternative to the covered person if such an alternative is available.***

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

11       ***{(2) The provisions of this section shall not apply to any policy or***  
12 ***certificate that provides coverage for any specified disease, specified***  
13 ***accident or accident only coverage, credit, dental, disability income,***  
14 ***hospital indemnity, long-term care insurance as defined by K.S.A. 40-***  
15 ***2227, and amendments thereto, vision care or any other limited***  
16 ***supplemental benefit nor to any medicare supplement policy of***  
17 ***insurance as defined by the commissioner of insurance by rule and***  
18 ***regulation, any coverage issued as a supplement to liability insurance,***  
19 ***workers compensation or similar insurance, automobile medical-***  
20 ***payment insurance or any insurance under which benefits are payable***  
21 ***with or without regard to fault, whether written on a group, blanket or***  
22 ***individual basis.***

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