

HOUSE BILL 580

J3

8lr0724

By: **Delegates Oaks, Costa, Davis, Elliott, Hammen, Hubbard, Kipke, and Rudolph**

Introduced and read first time: January 31, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Pharmacy and Therapeutics Committee**

3 FOR the purpose of establishing certain requirements for members of a pharmacy and
4 therapeutics committee of a pharmacy benefits manager; making certain
5 provisions of law applicable to health maintenance organizations; defining
6 certain terms; and generally relating to regulation of pharmacy benefits
7 managers.

8 BY adding to

9 Article – Insurance

10 Section 15–1601 to be under the new subtitle “Subtitle 16. Pharmacy Benefits
11 Managers”

12 Annotated Code of Maryland

13 (2006 Replacement Volume and 2007 Supplement)

14 BY adding to

15 Article – Health – General

16 Section 19–706(ppp)

17 Annotated Code of Maryland

18 (2005 Replacement Volume and 2007 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Insurance**

22 **SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

23 **15–1601.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) (I) "PHARMACY BENEFITS MANAGEMENT SERVICES"
4 MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG
5 BENEFITS.

6 (II) "PHARMACY BENEFITS MANAGEMENT SERVICES"
7 INCLUDES:

8 1. PROCUREMENT OF PRESCRIPTION DRUGS AT A
9 NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;

10 2. PROCESSING OF PRESCRIPTION DRUG CLAIMS;

11 3. ADMINISTRATION OF PAYMENTS RELATED TO
12 PRESCRIPTION DRUG CLAIMS; AND

13 4. NEGOTIATING OR ENTERING INTO CONTRACTUAL
14 ARRANGEMENTS WITH PHARMACY PROVIDERS.

15 (3) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT
16 PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

17 (B) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A MANAGED
18 CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH -
19 GENERAL ARTICLE.

20 (C) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN INSURER,
21 NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION,
22 OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF AN INSURER,
23 NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION
24 ACTING OR REPRESENTING ITSELF AS A PHARMACY BENEFITS MANAGER IF:

25 (1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR
26 HEALTH MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR
27 OTHER RELATED ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN,
28 OR HEALTH MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES
29 PHARMACY BENEFITS MANAGEMENT SERVICES; AND

30 (2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE
31 OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSURED
32 WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE

1 INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE
2 ORGANIZATION.

3 (D) (1) EACH MEMBER OF A PHARMACY AND THERAPEUTICS
4 COMMITTEE OF A PHARMACY BENEFITS MANAGER SHALL BE:

5 (I) A PHYSICIAN OR OTHER AUTHORIZED PRESCRIBER, A
6 PHARMACIST, OR A FACULTY MEMBER OF AN ACADEMIC MEDICAL CENTER; AND

7 (II) DISCLOSED BY NAME TO THE PURCHASER ON REQUEST.

8 (2) A MAJORITY OF COMMITTEE MEMBERS MAY NOT BE
9 EMPLOYED BY THE PHARMACY BENEFITS MANAGER.

10 (E) A PHARMACY AND THERAPEUTICS COMMITTEE MEMBER MAY NOT:

11 (1) BE AN OFFICER, EMPLOYEE, DIRECTOR, OR AGENT OF A
12 PHARMACEUTICAL MANUFACTURER; OR

13 (2) HAVE A FINANCIAL INTEREST IN A PHARMACEUTICAL
14 MANUFACTURER, OTHER THAN OWNERSHIP OF A NOMINAL NUMBER OF SHARES
15 OF THE PHARMACEUTICAL MANUFACTURER'S STOCK, PURCHASED ON A
16 NATIONAL SECURITIES EXCHANGE.

17 (F) (1) A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE A
18 PHARMACY TO PARTICIPATE IN A PHARMACY AND THERAPEUTICS COMMITTEE.

19 (2) IF A PHARMACY AGREES TO PARTICIPATE IN A PHARMACY
20 AND THERAPEUTICS COMMITTEE, THE PHARMACY BENEFITS MANAGER SHALL
21 REIMBURSE ANY EXPENSES INCURRED BY THE PHARMACY AS A RESULT OF ITS
22 PARTICIPATION.

23 (G) ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT
24 REGULATIONS TO IMPLEMENT THIS SECTION.

25 (H) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING
26 \$5,000 FOR EACH VIOLATION OF THIS SECTION.

27 **Article - Health - General**

28 19-706.

29 (PPP) THE PROVISIONS OF § 15-1601 OF THE INSURANCE ARTICLE APPLY
30 TO HEALTH MAINTENANCE ORGANIZATIONS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.