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**HOUSE BILL NO. 2375**

House Amendments in [ ] - January 24, 2025

A *BILL to amend and reenact §§ 32.1-23.4 and 38.2-3407.15:6 of the Code of Virginia, relating to prescription drug price transparency; pharmacy services administrative organizations.*

Patron Prior to Engrossment—Delegate Sickles

Referred to Committee on Health and Human Services

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 32.1-23.4 and 38.2-3407.15:6 of the Code of Virginia are amended and reenacted as follows:

**§ 32.1-23.4. Prescription drug price transparency; civil penalty.**

A. As used in this section, "nonprofit:

"Nonprofit data services organization" means the nonprofit organization with which the Commissioner has negotiated and entered into a contract or agreement for the compilation, storage, analysis, and evaluation of data submitted by health care providers pursuant to § 32.1-276.4.

"Pharmacy services administrative organization" means an entity that provides administrative services to independent pharmacies, including negotiation with pharmacy benefits managers and other entities, to support pharmacies in contracting, compliance, and other operational areas.

B. The Department shall negotiate and enter into a contract or agreement with a nonprofit data services organization to annually collect, compile, and make available on its website publicly available information about prescription drug prices submitted by health carriers and, pharmacy benefits managers, and pharmacy services administrative organizations pursuant to § 38.2-3407.15:6, wholesale distributors pursuant to § 54.1-3436.1, and manufacturers pursuant to § 54.1-3442.02. Such data and information shall be made available in aggregate in a form and manner that does not disclose or tend to disclose proprietary or confidential information of any health carrier, pharmacy services administrative organization, pharmacy benefits manager, wholesale distributor, or manufacturer.

C. A health carrier, pharmacy services administrative organization, pharmacy benefits manager, wholesale distributor, or manufacturer that fails to report information required to be reported pursuant to this section or § 38.2-3407.15:6, 54.1-3436.1, or 54.1-3442.02, respectively, shall be subject to a civil penalty not to exceed \$2,500 per day from the date on which such reporting is required, to be collected by the Commissioner and deposited into the Literary Fund. However, the Commissioner may reduce or waive a civil penalty imposed pursuant to this section if he determines that the violation was reasonable or resulting from good cause.

D. The Department shall adopt regulations to implement the provisions of this section, which shall include (i) provisions related to the specification of prescription drugs for the purpose of data collection and procedures for auditing information provided by health carriers, pharmacy services administrative organizations, pharmacy benefits managers, wholesale distributors, and manufacturers and (ii) a schedule of civil penalties for failure to report information required pursuant to this section or § 38.2-3407.15:6, 54.1-3436.1, or 54.1-3442.02, which shall be based on the level of severity of the violation.

E. All information submitted by a health carrier, pharmacy services administrative organization, or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02 shall be confidential and exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except to the extent that such information is included in an aggregated form in the report required pursuant to this section.

**§ 38.2-3407.15:6. Prescription drug price transparency.**

A. As used in this section:

"Carrier" has the same meaning as set forth in § 38.2-3407.10.

"Health benefit plan" has the same meaning as set forth in § 38.2-3438.

"Manufacturer" has the same meaning as set forth in § 54.1-3401.

"Nonprofit data services organization" has the same meaning as set forth in § 32.1-23.4.

"Pharmacy benefits management" has the same meaning as set forth in § 38.2-3407.15:4.

"Pharmacy benefits manager" has the same meaning as set forth in § 38.2-3407.15:4.

"Pharmacy services administrative organization" has the same meaning as set forth in § 32.1-23.4.

B. Every carrier offering a health benefit plan shall report annually by April 1 to the nonprofit data services organization with which the Department of Health has entered into a contract or agreement pursuant to § 32.1-23.4 the following information on spending on prescription drugs in total, before enrollee cost sharing, for each health benefit plan offered by the carrier in the Commonwealth:

1. For covered outpatient prescription drugs that were prescribed to enrollees during the calendar year, the

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59 names of (i) the 25 most frequently prescribed outpatient prescription drugs, (ii) the names of the 25  
60 outpatient prescription drugs covered at the greatest cost, calculated using the total annual spending by such  
61 health benefit plan for each outpatient prescription drug covered by the health benefit plan; and (iii) the 25  
62 outpatient prescription drugs that experienced the greatest year-over-year increase in cost, calculated using  
63 the total annual spending by such health benefit plan for each outpatient prescription drug covered by the  
64 health benefit plan;

65 2. The percent increase in annual net spending for prescription drugs after accounting for aggregated  
66 rebates, discounts, or other reductions in price;

67 3. The percent increase in premiums that were attributable to each health care service, including  
68 prescription drugs;

69 4. The percentage of specialty drugs with utilization management requirements; and

70 5. The premium reductions that were attributable to specialty drug utilization management.

71 C. A report submitted by a carrier pursuant to this section shall not disclose the identity of a specific  
72 health benefit plan or the price charged for a specific prescription drug or class of prescription drugs.

73 D. Every carrier offering a health benefit plan shall require each pharmacy benefits manager with which it  
74 enters into a contract for pharmacy benefits management to report annually by April 1 to the nonprofit data  
75 services organization with which the Department has entered into a contract or agreement pursuant to §  
76 32.1-23.2 the following information for each drug specified by the Department of Health:

77 1. The aggregate amount of rebates received by the pharmacy benefits manager;

78 2. The aggregate amount of rebates distributed to the relevant health benefit plan; and

79 3. The aggregate amount of rebates passed on to enrollees of each health benefit plan at the point of sale  
80 that reduced the enrollees' applicable deductible, copayment, coinsurance, or other cost-sharing amount.

81 E. *A pharmacy services administrative organization shall, to the extent allowed by law, submit a report*  
82 *annually by April 1 to the nonprofit data services organization with which the Department has entered into a*  
83 *contract or agreement pursuant to § 32.1-23.4. Such report shall include the following information for each*  
84 *prescription drug specified by the Department of Health:*

85 1. *The negotiated reimbursement rate that the pharmacy services administrative organization pays*  
86 *pharmacies for brand, generic, and specialty drugs for each pharmacy benefits manager's pharmacy*  
87 *network;*

88 2. *The negotiated reimbursement rate that the pharmacy benefits manager pays the pharmacy services*  
89 *administrative organization for brand, generic, and specialty drugs for each pharmacy benefits manager's*  
90 *pharmacy network; and*

91 3. *The schedule of fees charged by the organization to pharmacies.*

92 [ *A pharmacy services administrative organization that solely generates revenue from charging flat*  
93 *service fees to pharmacies and does not charge pharmacies for services based on prescription drug prices or*  
94 *volume shall be exempt from the reporting requirements of this section. ]*

95 F. A report submitted by a pharmacy benefits manager *or pharmacy services administrative organization*  
96 *pursuant to subsection D or E shall not disclose the identity of a specific health benefit plan or covered*  
97 *person, the price charged for a specific prescription drug or class of prescription drugs, or the amount of any*  
98 *rebate or fee provided for a specific prescription drug or class of prescription drugs.*