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HOUSE BILL NO. 1271

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend and reenact §§ 38.2-3465, 38.2-3467, and 38.2-3469 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3467.1, relating to health insurance; pharmacy benefits management; requirements and prohibited conduct; retail pharmacy network access standards; enforcement; civil penalty.

Patron—Wachsmann

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3465, 38.2-3467, and 38.2-3469 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3467.1 as follows:

§ 38.2-3465. Definitions.

A. As used in this article, unless the context requires a different meaning:

"Aggregate retained rebate percentage" means the sum total dollar amount of a pharmacy benefits manager's retained rebates relating to all carrier clients of such pharmacy benefits manager divided by the sum total dollar amount of all rebates received by such pharmacy benefits manager relating to all such clients.

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15. However, "carrier" does not include a nonprofit health maintenance organization that operates as a group model whose internal pharmacy operation exclusively serves the members or patients of the nonprofit health maintenance organization.

"Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of administering, filling, or refilling a prescription for a drug or for providing a medical supply or device.

"Claims processing services" means the administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include (i) receiving payments for pharmacist services, (ii) making payments to pharmacists or pharmacies for pharmacist services, or (iii) both receiving and making payments.

"Contract pharmacy" means a pharmacy operating under contract with a 340B-covered entity to provide dispensing services to the 340B-covered entity, as described in 75 Fed. Reg. 10272 (March 5, 2010) or any superseding guidance published thereafter.

"Covered entity" means an entity described in § 340B(a)(4) of the federal Public Health Service Act, 42 U.S.C. § 256B(a)(4).

"Covered individual" means an individual receiving prescription medication coverage or reimbursement provided by a pharmacy benefits manager or a carrier under a health benefit plan.

"Health benefit plan" has the same meaning ascribed thereto in § 38.2-3438.

"Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail or through electronic submissions and to dispense medication to covered individuals through the use of the United States mail or other common or contract carrier services and that provides any consultation with covered individuals electronically rather than face-to-face.

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a carrier for the benefit of covered individuals. "Pharmacy benefits management" does not include any service provided by a nonprofit health maintenance organization that operates as a group model provided that the service is furnished through the internal pharmacy operation exclusively serves the members or patients of the nonprofit health maintenance organization. "Pharmacy benefits management" does not include the activities of an employer managing its own self-funded health benefit plan, except to the extent permitted by applicable law that the employer, without the utilization of a third party and unrelated to the employer's own pharmacy, (i) negotiates directly with drug manufacturers, (ii) processes claims on behalf of its members, or (iii) manages its own retail network of pharmacies. "Pharmacy benefits management" also does not include a pharmacy providing a patient with a discount card or program that is for exclusive use at the pharmacy offering the discount.

"Pharmacy benefits manager" or "PBM" means an entity that performs pharmacy benefits management. "Pharmacy benefits manager" includes an entity acting for a PBM in a contractual relationship in the performance of pharmacy benefits management for a carrier, nonprofit hospital, or third-party payor under a health program administered by the Commonwealth.

"Pharmacy benefits manager affiliate" means a business, pharmacy, or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under

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common ownership interest or control with a pharmacy benefits manager.

"Rebate" means a discount or other price concession, including without limitation incentives, disbursements, and reasonable estimates of a volume-based discount, or a payment that is (i) based on utilization of a prescription drug and (ii) paid by a manufacturer or third party, directly or indirectly, to a pharmacy benefits manager, pharmacy services administrative organization, or pharmacy after a claim has been processed and paid at a pharmacy.

"Retail community pharmacy" means a pharmacy that is open to the public, serves walk-in customers, and makes available face-to-face consultations between licensed pharmacists and persons to whom medications are dispensed.

"Retail pharmacy network" means a group of retail pharmacies that have contracted with a pharmacy benefits manager.

"Retained rebate" means a rebate that is not passed on to a health benefit plan.

"Retained rebate percentage" means the sum total dollar amount of a pharmacy benefits manager's retained rebates relating to a health benefit plan divided by the sum total dollar amount of all rebates received by such pharmacy benefits manager relating to such health benefit plan.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a health benefit plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

§ 38.2-3467. Prohibited conduct by carriers and pharmacy benefits managers.

A. No carrier on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager shall:

1. Cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, *deceptive, or misleading*;

2. Charge a pharmacist or pharmacy a fee related to the adjudication of a claim ~~other than a reasonable, including a fee for an~~ initial claim submission;

3. Reimburse a pharmacy or pharmacist an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services, calculated on a per-unit basis using the same generic product identifier or generic code number and reflecting all drug manufacturer's rebates, direct and indirect administrative fees, and costs and any remuneration *paid to the pharmacy benefits manager affiliate*;

4. Penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this article;

5. Impose requirements, exclusions, reimbursement terms, or other conditions on a covered entity or contract pharmacy that differ from those applied to entities or pharmacies that are not covered entities or contract pharmacies on the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or pharmacy dispenses 340B-covered drugs. Nothing in this subdivision shall (i) apply to drugs with an annual estimated per-patient cost exceeding \$250,000 or (ii) prohibit the identification of a 340B reimbursement request; ~~or~~

6. Interfere with a covered individual's right to choose a pharmacy or provider, based on the pharmacy or provider's status as a covered entity ~~or~~, contract pharmacy, *retail pharmacy, or mail order pharmacy*, or *require or incentivize individuals to receive prescription drugs from a preferred in-network pharmacy*;

7. *Deny a pharmacy the opportunity to participate in any pharmacy network at preferred participation status if the pharmacy is willing to accept the terms and conditions that the PBM has established for other pharmacies as a condition of preferred network participation status*;

8. *Retroactively deny or reduce reimbursement for a covered service claim after returning a paid claim response as part of the adjudication of the claim, unless (i) the original claim was submitted fraudulently or (ii) to correct the errors identified in a lawful audit*;

9. *Fail to make any payment due to a pharmacy or pharmacist for covered services properly rendered in the event a PBM terminates a pharmacy from a pharmacy benefits manager network; or*

10. *Charge a pharmacist or pharmacy a fee related to participation in a retail pharmacy network, including an application fee, enrollment or participation fee, credentialing or re-credentialing fee, change of ownership fee, or fee for the development or management of claims processing services or claims payment services.*

B. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager, shall restrict participation of a pharmacy in a pharmacy network for provider accreditation standards or certification requirements if a pharmacist meets such accreditation standards or certification standards.

C. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager, shall include any mail order pharmacy or pharmacy benefits manager affiliate in calculating or determining network adequacy under any law or contract in the Commonwealth.

D. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a

pharmacy benefits manager, shall conduct spread pricing in the Commonwealth.

E. Each carrier on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager shall comply with the provisions of this section in addition to complying with the provisions of § 38.2-3407.15:1.

§ 38.2-3467.1. Provisions related to pharmacy benefits management; requirements for pharmacy benefits managers.

A. No contract for pharmacy benefits management services shall:

1. Restrict, directly or indirectly, any pharmacy that dispenses a prescription drug from informing, or penalize such pharmacy for informing, an individual of any differential between the individual's out-of-pocket costs and the amount an individual would pay to purchase the drug directly or through the individual's health insurance coverage;

2. Prohibit, restrict, or limit the disclosure of information or documents to the Office of the Attorney General, law enforcement, or state and federal government agencies or officials investigating or examining a complaint or conducting a review of a pharmacy benefits manager's compliance with the requirements of this article; or

3. Require an individual to use a pharmacy that is a pharmacy benefits manager affiliate, including for all regular prescriptions, refills, or specialty drugs, regardless of day supply.

B. In providing pharmacy benefits management services, a PBM shall:

1. Establish and maintain an electronic claim inquiry processing system using standards issued by the National Council for Prescription Drug Programs to communicate information to pharmacies submitting claim inquiries;

2. Fully disclose to insurers, self-funded employers, unions, or other clients the existence of the respective aggregate prescription drug discounts, rebates received from drug manufacturers, and pharmacy audit recoupments;

3. Provide upon request of the Commission, an insurance carrier, a self-funded employer plan, or a labor organization access to the PBM's pharmaceutical manufacturer and provider contracts, plan utilization data, plan pricing data, pharmacy utilization data, and pharmacy pricing data;

4. Maintain, for no less than three years, documentation of all network development activities, including contract negotiations and any denials to providers to join networks. This documentation shall be made available to the Commission upon request; and

5. Submit a quarterly report to the Commission as required by § 38.2-3468.

C. No pharmacy benefits manager shall include the name of any specific pharmacy or hospital in any manner on any material issued by the pharmacy benefits manager, unless it lists all pharmacies and hospitals participating in the preferred and nonpreferred pharmacy and health networks.

§ 38.2-3469. Enforcement; civil investigative orders; civil penalty.

A. The Commission shall enforce this article, except as provided in subsection C, D, and E.

B. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this article.

C. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in, any violation of § 38.2-3467 or 38.2-3467.1, the Attorney General is empowered to issue a civil investigative demand. Civil investigative demands brought under this subsection shall be conducted pursuant to the provisions of § 59.1-9.10.

D. Notwithstanding any other provisions of law to the contrary, the Attorney General may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth to enjoin any violation of § 38.2-3467 or 38.2-3467.1. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law. In any action under this subsection, it shall not be necessary for damages to be proven.

E. In any action brought under subsection D, if the court finds that a person has willfully engaged in an act or practice in violation of § 38.2-3467 or 38.2-3467.1, the Attorney General may recover for the general fund, upon petition to the court, a civil penalty of not more than \$5,000 per violation. For the purposes of this subsection, prima facie evidence of a willful violation may be shown when the Attorney General notifies the alleged violator by certified mail that an act or practice is in violation of § 38.2-3467 or 38.2-3467.1, and the alleged violator, after receipt of such notice, continues to engage in the act or practice.