

P.L. 2023, CHAPTER 221, *approved January 8, 2024*
Senate, No. 3604 (*First Reprint*)

1 **AN ACT** concerning payment for certain health-related costs and
2 amending and supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 ¹**[**1. Section 1 of P.L.2019, c.257 (C.17B:27F-6) is amended to
8 read as follows:

9 1. a. A pharmacy benefits manager, in connection with any
10 contract or arrangement with a private health insurer, prescription
11 benefit plan, or the State Health Benefits Program or School
12 Employees' Health Benefits Program, shall not require a covered
13 person to make a payment at the point of sale for any amount for a
14 deductible, coinsurance payment, or a copayment for a prescription
15 drug benefit in an amount that exceeds the amount the covered
16 person would pay for the prescription drug if the covered person
17 purchased the prescription drug without using a health benefits
18 plan.

19 b. (1) A pharmacy benefits manager shall not prohibit a
20 network pharmacy from disclosing, and shall not apply a penalty or
21 any other type of disincentive to a network pharmacy that discloses,
22 to a covered person lower cost prescription drug options, including
23 those that are available to the covered person if the covered person
24 purchases the prescription drug without using health insurance
25 coverage.

26 (2) A pharmacy benefits manager shall not prohibit or apply any
27 penalty or disincentive to a network pharmacy if a discounted price
28 generated by a healthcare platform, as defined pursuant to section 2
29 of P.L.2003, c.280 (C.45:14-41), is applied to the payment of a
30 covered person with an account or membership to the healthcare
31 platform for a prescription drug, even if the covered person
32 maintains health insurance coverage.

33 c. Any provision of a contract that conflicts with the provisions
34 of subsection b. of this section shall be void and unenforceable.

35 d. A violation of this section shall be an unlawful practice and
36 a violation of P.L.1960, c.39 (C.56:8-1 et seq.), and shall also be
37 subject to any enforcement action that the Commissioner of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted December 11, 2023.

1 Banking and Insurance is authorized to take pursuant to section 5 of
2 P.L.2015, c.179 (C.17B:27F-5).
3 (cf: P.L.2019, c.57, s.1)】¹

4
5 ¹1. Section 1 of P.L.2019, c.257 (C.17B:27F-6) is amended to
6 read as follows:

7 1. a. A pharmacy benefits manager, in connection with any
8 contract or arrangement with a private health insurer, prescription
9 benefit plan, or the State Health Benefits Program or School
10 Employees' Health Benefits Program, shall not require a covered
11 person to make a payment at the point of sale for any amount for a
12 deductible, coinsurance payment, or a copayment for a prescription
13 drug benefit in an amount that exceeds the amount permitted
14 pursuant to subsection d. of section 3 of P.L.2023, c.107
15 (C.17B:27F-3.1).

16 b. A pharmacy benefits manager shall not prohibit a network
17 pharmacy from, and shall not apply a penalty or any other type of
18 disincentive to a network pharmacy for:

19 (1) disclosing to a covered person lower cost prescription drug
20 options, including those that are available to the covered person if
21 the covered person purchases the prescription drug without using
22 health insurance coverage;

23 (2) providing a covered person with the option of paying the
24 pharmacy provider's cash price for the purchase of a prescription
25 drug and not filing a claim with the covered person's health benefits
26 plan if the cash price is less than the covered person's cost-sharing
27 amount; **[or]**

28 (3) providing information to a State or federal agency, law
29 enforcement agency, or the department when such information is
30 required by law; or

31 (4) applying a discounted price generated by a healthcare
32 platform, as defined pursuant to section 2 of P.L.2003, c.280
33 (C.45:14-41), to the payment of a covered person with an account
34 or membership to the healthcare platform for a prescription drug,
35 even if the covered person maintains health insurance coverage.

36 c. Any provision of a contract that conflicts with the provisions
37 of subsection b. of this section shall be void and unenforceable.

38 d. A violation of this section shall be an unlawful practice and
39 a violation of P.L.1960, c.39 (C.56:8-1 et seq.), and shall also be
40 subject to any enforcement action that the Commissioner of
41 Banking and Insurance is authorized to take pursuant to section 5 of
42 P.L.2015, c.179 (C.17B:27F-5).¹
43 (cf: P.L.2023, c.107, s.10)

44
45 2. Section 2 of P.L.2003, c.280 (C.45:14-41) is amended to
46 read as follows:

47 2. As used in this act:

1 "Administer" means the direct application of a drug to the body
2 of a patient or research subject by subcutaneous, intramuscular or
3 intradermal injection, inhalation or ingestion by a pharmacist
4 engaged in collaborative practice or in accordance with regulations
5 jointly promulgated by the board and the State Board of Medical
6 Examiners.

7 "Automated medication device" means a discrete unit that
8 performs specific drug dispensing operations.

9 "Automated medication system" means any process that
10 performs operations or activities, other than compounding or
11 administration, relative to the storage, packaging, dispensing and
12 distribution of medications and which collects, controls and
13 maintains all transaction information.

14 "Board of Pharmacy" or "board" means the New Jersey State
15 Board of Pharmacy.

16 "Certification" means a certification awarded by a recognized
17 non-government specialty organization to signify that a pharmacist
18 has met predetermined qualifications and to signify to the public
19 that the pharmacist is competent to practice in the designated
20 specialty.

21 "Collaborative drug therapy management" means a written
22 protocol directed on a voluntary basis by a patient's physician, with
23 the patient's consent, that is between a patient's physician who is
24 treating the patient for a specific disease and a pharmacist for
25 cooperative management of a patient's drug, biological and device-
26 related health care needs, which shall be conducted in accordance
27 with regulations jointly promulgated by the board and the State
28 Board of Medical Examiners and shall only include the collecting,
29 analyzing and monitoring of patient data; ordering or performing of
30 laboratory tests based on the standing orders of a physician as set
31 forth in the written protocol; ordering of clinical tests based on the
32 standing orders of a physician as set forth in the written protocol,
33 provided those laboratory tests are granted waived status in
34 accordance with the provisions of the "New Jersey Clinical
35 Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et
36 seq.) and are for the treatment of a disease state identified jointly by
37 the board and the State Board of Medical Examiners as subject to
38 collaborative drug therapy management; modifying, continuing or
39 discontinuing drug or device therapy; and therapeutic drug
40 monitoring with appropriate modification to dose, dosage regimen,
41 dosage forms or route of administration. The interpretation of
42 clinical or laboratory tests under a written protocol may only be
43 performed by a pharmacist in direct consultation with a physician.

44 "Compounding" means the preparation, mixing, assembling,
45 packaging or labeling of a drug or device as the result of a
46 practitioner's prescription or initiative based on the relationship of
47 the practitioner or patient with the pharmacist in the course of
48 professional practice or for the purpose of, or incident to, research,

1 teaching or chemical analysis and not for sale or dispensing.
2 Compounding also includes the preparation of drugs or devices in
3 anticipation of prescription drug orders based on routine, regularly
4 observed prescribing patterns. Nothing in this act is meant to limit
5 a prescriber's ability under pre-existing law to order a compounded
6 medication for use in the prescriber's practice, as permitted by State
7 and federal law.

8 "Confidential information" means information that is identifiable
9 as to the patient involved that a pharmacist accesses, transmits or
10 maintains in a patient's record or which is communicated to or by
11 the patient as part of patient counseling.

12 "Credentialing" means the process by which an approved
13 academic institution awards a certificate to signify that the
14 credentialed pharmacist has completed the required courses,
15 examinations or both, that indicate advanced knowledge of a
16 particular area of pharmacy.

17 "Deliver" or "delivery" means the actual, constructive or
18 attempted transfer of a drug or device from one person to another,
19 whether or not for consideration.

20 "Device" means an instrument, apparatus, implement, machine,
21 contrivance, implant or other similar or related article, including
22 any component part or accessory, which is required under federal
23 law to bear the label "RX Only."

24 "Dispense" or "dispensing" means the procedure entailing the
25 interpretation of a practitioner's prescription order for a drug,
26 biological or device, and pursuant to that order the proper selection,
27 measuring, compounding, labeling and packaging in a proper
28 container for subsequent administration to, or use by, a patient.

29 "Dosage form" means the physical formulation or medium in
30 which the product is intended, manufactured and made available for
31 use, including, but not limited to: tablets, capsules, oral solutions,
32 aerosols, inhalers, gels, lotions, creams, ointments, transdermals
33 and suppositories, and the particular form of the above which
34 utilizes a specific technology or mechanism to control, enhance or
35 direct the release, targeting, systemic absorption or other delivery of
36 a dosage regimen in the body.

37 "Drug or medication" means articles recognized as drugs in any
38 official compendium, or supplement thereto, designated from time
39 to time by the board for use in the diagnosis, cure, mitigation,
40 treatment or prevention of disease in humans or other animals;
41 articles intended for use in the diagnosis, cure, mitigation, treatment
42 or prevention of disease in humans or other animals; articles
43 intended to affect the structure or any function of the body of
44 humans or other animals, except that a food, dietary ingredient or
45 dietary supplement, as those terms are defined in 21 U.S.C.s.321, is
46 not a drug solely because the label or the labeling contains such a
47 claim; and articles intended for use as a component of and articles
48 specified in this definition of "drug or medication."

1 "Drug utilization review" includes, but is not limited to, the
2 following activities:

3 (1) Evaluation of prescription drug orders and patient records
4 for known allergies, rational therapy-contraindications, appropriate
5 dose and route of administration and appropriate directions for use;

6 (2) Evaluation of prescription drug orders and patient records
7 for duplication of therapy;

8 (3) Evaluation of prescription drug orders and patient records
9 for interactions between drug-drug, drug-food, drug-disease and
10 adverse drug reactions; and

11 (4) Evaluation of prescription drug orders and patient records
12 for proper utilization, including over- or under-utilization, and
13 optimum therapeutic outcomes.

14 "Extern" means any person who is in the fifth or sixth year of
15 college or the third or fourth professional year, at an accredited
16 school or college of pharmacy approved by the board, who is
17 assigned to a training site for the purpose of acquiring accredited
18 practical experience under the supervision of the school or college
19 at which the person is enrolled.

20 "Electronic means" means any electronic or digital transmission
21 format, including facsimile or computer generated messaging.

22 "Healthcare platform" means an Internet-based service through
23 which a consumer, who may or may not have separate health
24 insurance coverage, may set-up an account or become a member to
25 obtain discounts on prescription or non-prescription drugs or
26 devices and through which other services, including telemedicine,
27 may be provided.

28 "Immediate supervision" means a level of control which assures
29 that the pharmacist is physically present at the pharmacy practice
30 site and has the responsibility for accuracy and safety with respect
31 to the actions of pharmacy technicians, interns and externs.

32 "Intern" means any person who has graduated from an accredited
33 school or college of pharmacy approved by the board, or if a foreign
34 pharmacy graduate, any person who has met all of the requirements
35 of the board, and who is being trained by an approved preceptor for
36 the purpose of acquiring accredited practical experience and who
37 has first registered for that purpose with the board.

38 "Labeling" means the process of preparing and affixing a label to
39 any drug container, exclusive however, of the labeling by a
40 manufacturer, packer or distributor of a non-prescription drug or
41 commercially packaged legend drug or device.

42 "Licensure" means the process by which the board grants
43 permission to an individual to engage in the practice of pharmacy
44 upon finding that the applicant has attained the degree of
45 competency necessary to ensure that the public health, safety and
46 welfare will be protected.

1 "Medication error" means a preventable event that may cause or
2 lead to inappropriate use of a medication or patient harm while the
3 medication is in the control of the practitioner, patient or consumer.

4 "Medication order" means a prescription for a specific patient in
5 an institutional setting.

6 "Modifying" means to change a specific drug, the dosage, or
7 route of delivery of a drug currently being administered for an
8 existing diagnosis pursuant to a collaborative drug therapy
9 management.

10 "Non-prescription drug or device" means a drug or device which
11 may be obtained without a prescription and which is labeled for
12 consumer use in accordance with the requirements of the laws and
13 rules of this State and the federal government.

14 "Permit" means the authorization granted by the board to a site to
15 engage in the practice of pharmacy.

16 "Person" means an individual, corporation, partnership,
17 association or any other legal entity including government.

18 "Pharmaceutical care" means the provision by a pharmacist of
19 drug therapy review and other related patient care services intended
20 to achieve positive outcomes related to the treatment, cure or
21 prevention of a disease; control, elimination or reduction of a
22 patient's symptoms; or arresting or slowing of a disease process as
23 defined by the rules and regulations of the board.

24 "Pharmacist" means an individual currently licensed by this State
25 to engage in the practice of pharmacy.

26 "Pharmacist-in-charge" means a pharmacist who accepts
27 responsibility for the operation of a pharmacy practice site in
28 conformance with all laws and rules pertinent to the practice of
29 pharmacy and the distribution of drugs.

30 "Pharmacist in collaborative practice" means a pharmacist
31 engaged in the collaborative drug therapy management of a patient's
32 drug, biological and device-related health care needs pursuant to a
33 written protocol, in collaboration with a licensed physician and in
34 accordance with the regulations jointly promulgated by the board
35 and the State Board of Medical Examiners.

36 "Pharmacy practice site" means any place in this State where
37 drugs are dispensed or pharmaceutical care is provided by a
38 licensed pharmacist, but shall not include a medical office under the
39 control of a licensed physician.

40 "Pharmacy technician" means an individual working in a
41 pharmacy practice site who, under the immediate supervision of a
42 pharmacist, assists in pharmacy activities as permitted by section 41
43 of this act and the rules and regulations of the board that do not
44 require the professional judgment of a pharmacist.

45 "Practice of pharmacy" means a health care service by a
46 pharmacist that includes: compounding, dispensing and labeling of
47 drugs, biologicals, radio pharmaceuticals or devices; overseeing
48 automated medication systems; interpreting and evaluating

1 prescriptions; administering and distributing drugs, biologicals and
2 devices; maintaining prescription drug records; advising and
3 consulting on the therapeutic values, content, hazards and uses of
4 drugs, biologicals and devices; managing and monitoring drug
5 therapy; collecting, analyzing and monitoring patient data;
6 performing drug utilization reviews; storing prescription drugs and
7 devices; supervising technicians, interns and externs; and such other
8 acts, services, operations or transactions necessary, or incidental to,
9 providing pharmaceutical care and education. In accordance with
10 written guidelines or protocols established with a licensed
11 physician, the "practice of pharmacy" also includes collaborative
12 drug therapy management including modifying, continuing or
13 discontinuing drug or device therapy; ordering or performing of
14 laboratory tests under collaborative drug therapy management; and
15 ordering clinical tests, excluding laboratory tests, unless those tests
16 are part of collaborative drug therapy management.

17 "Practitioner" means an individual currently licensed, registered
18 or otherwise authorized by the jurisdiction in which the individual
19 practices to administer or prescribe drugs in the course of
20 professional practice.

21 "Preceptor" means an individual who is a pharmacist, meets the
22 qualifications under the rules and regulations of the board, and
23 participates in the instructional training of pharmacy interns and
24 externs.

25 "Prescription" means a lawful order of a practitioner for a drug, a
26 device or diagnostic agent for a specific patient.

27 "Prescription drug" or "legend drug" means a drug which, under
28 federal law, is required to be labeled prior to being delivered to the
29 pharmacist, with either of the following statements: "Rx Only" or
30 "Caution: Federal law restricts this drug to use by, or on the order
31 of, a licensed veterinarian" or is required by any applicable federal
32 or state law, rule or regulation to be dispensed pursuant to a
33 prescription drug order or is restricted to use by a practitioner only.

34 "Registration" means the process of making a list or being
35 enrolled in an existing list.

36 "Therapeutic interchange" means the substitution and dispensing
37 of a drug chemically dissimilar from the prescription drug
38 originally prescribed.

39 (cf: P.L.2003, c.280, s.2)

40

41 3. Section 26 of P.L.2003, c.280 (C.45:14-65) is amended to
42 read as follows:

43 26. In addition to the provisions of section 8 of P.L.1978, c.73
44 (C.45:1-21), the board may refuse an application for examination or
45 may suspend or revoke the certificate of a licensed pharmacist upon
46 proof satisfactory to the board that such licensed pharmacist is
47 guilty of grossly unprofessional conduct and the following acts are

1 hereby declared to constitute grossly unprofessional conduct for the
2 purpose of this act:

3 a. Paying rebates or entering into an agreement for payment of
4 rebates to any physician, dentist or other person for the
5 recommending of the services of any person.

6 b. The providing or causing to be provided to a physician,
7 dentist, veterinarian or other person authorized to prescribe,
8 prescription blanks or forms bearing the pharmacist's or pharmacy's
9 name, address or other means of identification.

10 c. The claiming of professional superiority in the compounding
11 or filling of prescriptions or in any manner implying professional
12 superiority which may reduce public confidence in the ability,
13 character or integrity of other pharmacists.

14 d. Fostering the interest of one group of patients at the expense
15 of another which compromises the quality or extent of professional
16 services or facilities made available.

17 e. The distribution of premiums or rebates of any kind
18 whatsoever in connection with the sale of drugs and medications
19 provided, however, that trading stamps and similar devices shall not
20 be considered to be rebates for the purposes of this act and provided
21 further that discounts, premiums and rebates may be provided in
22 connection with the sale of drugs and medications to any person
23 who is 60 years of age or older and that discounts may be provided
24 to any person who is a member of or is an account holder with a
25 healthcare platform.

26 f. Advertising of prescription drug prices in a manner
27 inconsistent with rules and regulations promulgated by the Director
28 of the Division of Consumer Affairs, except that no advertising of
29 any drug or substance shall be authorized unless the Commissioner
30 of Health and Senior Services shall have determined that the
31 advertising is not harmful to public health, safety and welfare.

32 g. Engaging in activities beyond the scope of a collaborative
33 drug therapy management agreement.

34 Before a certificate shall be refused, suspended or revoked, the
35 accused person shall be furnished with a copy of the complaint and
36 given a hearing before the board. Any person whose certificate is
37 so suspended or revoked shall be deemed an unlicensed person
38 during the period of such suspension or revocation, and as those
39 shall be subject to the penalties prescribed in this act, but that
40 person may, at the discretion of the board, have his certificate
41 reinstated at any time without an examination, upon application to
42 the board. Any person to whom a certificate shall be denied by the
43 board or whose certificate shall be suspended or revoked by the
44 board shall have the right to review that action by appeal to the
45 Appellate Division of the Superior Court in lieu of prerogative writ.
46 (cf: P.L.2003, c.280, s.26)

1 4. (New section) A patient with a membership or account with
2 a healthcare platform may apply the membership or account as part
3 of the payment for a prescription or non-prescription drug or
4 device.

5
6 5. (New section) A patient with a membership or an account
7 with a healthcare platform, as defined pursuant to section 2 of
8 P.L.2003, c.280 (C.45:14-41), may apply the membership or
9 account towards payment of services provided as a result of
10 telehealth or telemedicine. A patient who uses or intends to use a
11 membership or an account with a healthcare platform to pay for
12 telehealth or telemedicine services shall notify a provider of any
13 identification number, if given, in connection with the membership
14 or account with a healthcare platform to ensure the preservation of a
15 proper patient-provider relationship pursuant to section 3 of
16 P.L.2017, c.117 (C.45:1-63).

17
18 6. This act shall take effect immediately.

19

20

21

22

23 _____
24 Authorizes use of healthcare platforms providing discounted
25 prices for payment of prescription and non-prescription drugs or
devices and for telehealth and telemedicine services.