

STATEMENT TO
SENATE, No. 1616

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: JUNE 26, 2023

These floor amendments:

(1) stipulate that pharmacy benefits managers are to be licensed with the Department of Banking and Insurance (department) while pharmacy services administrative organizations are to be registered with the department and require the department to establish, by regulation, certain minimum standards for the issuance of a license to a pharmacy benefits manager;

(2) revise certain definitions within the bill;

(3) require the department to suspend, revoke, or place on probation a licensee or registered entity under the bill if a pharmacy benefits manager (PBM) or pharmacy services administrative organization (PSAO) engages in any activity that constitutes a violation of State or federal law;

(4) include requirements providing that:

(a) PBMs have a duty of good faith and fair dealing in the performance of all of its contractual duties; and

(b) PBMs owe the same duty to a covered person as a health benefits plan or carrier;

(5) replace the requirement that a PBM maintain a “reasonable administrative procedure” with an internal appeal mechanism and independent arbitration;

(6) replace pharmacy and therapeutics committee conflict of interest standards with those set by the Center for Medicare and Medicaid Services, the Nation Committee for Quality Assurance, or another independent accrediting organization;

(7) require applicants for licensure or registration to provide, upon the department’s request, any contracts and documents between pharmacies, pharmacy benefits managers, and pharmacy services administrative organizations;

(8) stipulate that pharmacy services administrative organizations are not subject to certain requirements applicable to pharmacy benefits managers under the bill;

(9) revise civil penalties for persons who willfully disclose certain confidential information;

(10) increase the penalties pharmacy benefits managers are subject to for violations, and provide that pharmacy benefits managers may be required to make restitution and pay compensatory damages by the commissioner;

(11) provide that records, contracts, documents, or data submitted to the department by a carrier or a pharmacy benefits manager are to be kept confidential and protected from public disclosure;

(12) require the Drug Affordability Council to examine certain information concerning the prescription drug rebate system; and

(13) extend the effective date of the bill from the first day of the seventh month to the first day of the 18th month following the date of enactment, and provide that the bill applies to contracts and agreements entered into, renewed, modified, or amended on or after the effective date.