

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 14

Senator Maharath

Cosponsors: Senators Thomas, Fedor, Antonio

A BILL

To amend sections 1739.05 and 3959.12 and to enact
sections 1751.92, 3923.87, 3959.20, 4729.48, and
5162.201 of the Revised Code regarding pharmacy
benefit managers, pharmacists, and the
disclosure to patients of drug price
information.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1739.05 and 3959.12 be amended
and sections 1751.92, 3923.87, 3959.20, 4729.48, and 5162.201 of
the Revised Code be enacted to read as follows:

Sec. 1739.05. (A) A multiple employer welfare arrangement
that is created pursuant to sections 1739.01 to 1739.22 of the
Revised Code and that operates a group self-insurance program
may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment
of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment
of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment 18
of three hundred employees or self-employed individuals in any 19
combination of divisions (A) (1) and (2) of this section. 20

(B) A multiple employer welfare arrangement that is 21
created pursuant to sections 1739.01 to 1739.22 of the Revised 22
Code and that operates a group self-insurance program shall 23
comply with all laws applicable to self-funded programs in this 24
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 25
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 26
3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 27
3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 28
3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3923.87, 3923.89, 29
3923.90, 3924.031, 3924.032, and 3924.27 of the Revised Code. 30

(C) A multiple employer welfare arrangement created 31
pursuant to sections 1739.01 to 1739.22 of the Revised Code 32
shall solicit enrollments only through agents or solicitors 33
licensed pursuant to Chapter 3905. of the Revised Code to sell 34
or solicit sickness and accident insurance. 35

(D) A multiple employer welfare arrangement created 36
pursuant to sections 1739.01 to 1739.22 of the Revised Code 37
shall provide benefits only to individuals who are members, 38
employees of members, or the dependents of members or employees, 39
or are eligible for continuation of coverage under section 40
1751.53 or 3923.38 of the Revised Code or under Title X of the 41
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 42
Stat. 227, 29 U.S.C.A. 1161, as amended. 43

(E) A multiple employer welfare arrangement created 44
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 45
subject to, and shall comply with, sections 3903.81 to 3903.93 46
of the Revised Code in the same manner as other life or health 47

insurers, as defined in section 3903.81 of the Revised Code. 48

Sec. 1751.92. Each health insuring corporation shall 49
comply with the requirements of section 3959.20 of the Revised 50
Code as they pertain to health plan issuers. 51

As used in this section, "health plan issuer" has the same 52
meaning as in section 3922.01 of the Revised Code. 53

Sec. 3923.87. Each sickness and accident insurer or public 54
employee benefit plan shall comply with the requirements of 55
section 3959.20 of the Revised Code as they pertain to health 56
plan issuers. 57

As used in this section, "health plan issuer" has the same 58
meaning as in section 3922.01 of the Revised Code. 59

Sec. 3959.12. (A) Any license issued under sections 60
3959.01 to 3959.16 of the Revised Code may be suspended for a 61
period not to exceed two years, revoked, or not renewed by the 62
superintendent of insurance after notice to the licensee and 63
hearing in accordance with Chapter 119. of the Revised Code. The 64
superintendent may suspend, revoke, or refuse to renew a license 65
if upon investigation and proof the superintendent finds that 66
the licensee has done any of the following: 67

(1) Knowingly violated any provision of sections 3959.01 68
to 3959.16 or 3959.20 of the Revised Code or any rule 69
promulgated by the superintendent; 70

(2) Knowingly made a material misstatement in the 71
application for the license; 72

(3) Obtained or attempted to obtain a license through 73
misrepresentation or fraud; 74

(4) Misappropriated or converted to the licensee's own use 75

or improperly withheld insurance company premiums or 76
contributions held in a fiduciary capacity, excluding, however, 77
any interest earnings received by the administrator as disclosed 78
in writing by the administrator to the plan sponsor; 79

(5) In the transaction of business under the license, used 80
fraudulent, coercive, or dishonest practices; 81

(6) Failed to appear without reasonable cause or excuse in 82
response to a subpoena, examination, warrant, or other order 83
lawfully issued by the superintendent; 84

(7) Is affiliated with or under the same general 85
management or interlocking directorate or ownership of another 86
administrator that transacts business in this state and is not 87
licensed under sections 3959.01 to 3959.16 of the Revised Code; 88

(8) Had a license suspended, revoked, or not renewed in 89
any other state, district, territory, or province on grounds 90
identical to those stated in sections 3959.01 to 3959.16 of the 91
Revised Code; 92

(9) Been convicted of a financially related felony; 93

(10) Failed to report a felony conviction as required 94
under section 3959.13 of the Revised Code. 95

(B) Upon receipt of notice of the order of suspension in 96
accordance with section 119.07 of the Revised Code, the licensee 97
shall promptly deliver the license to the superintendent, unless 98
the order of suspension is appealed under section 119.12 of the 99
Revised Code. 100

(C) Any person whose license is revoked or whose 101
application is denied pursuant to sections 3959.01 to 3959.16 of 102
the Revised Code is ineligible to apply for an administrators 103

license for two years. 104

(D) The superintendent may impose a monetary fine against 105
a licensee if, upon investigation and after notice and 106
opportunity for hearing in accordance with Chapter 119. of the 107
Revised Code, the superintendent finds that the licensee has 108
done either of the following: 109

(1) Committed fraud or engaged in any illegal or dishonest 110
activity in connection with the administration of pharmacy 111
benefit management services; 112

(2) Violated any provision of section 3959.111 of the 113
Revised Code or any rule adopted by the superintendent pursuant 114
to or to implement that section. 115

Sec. 3959.20. (A) As used in this section: 116

(1) "Cost-sharing" means the cost to a covered person 117
under a health benefit plan according to any coverage limit, 118
copayment, coinsurance, deductible, or other out-of-pocket 119
expense requirements imposed by the plan. 120

(2) "Health benefit plan" and "health plan issuer" have 121
the same meanings as in section 3922.01 of the Revised Code. 122

(3) "Pharmacy" includes a pharmacist licensed under 123
Chapter 4729. of the Revised Code and a pharmacy, as defined in 124
section 4729.01 of the Revised Code, as well as any employee of 125
a pharmacy or pharmacist. 126

(4) "Pharmacy benefit manager" and "administrator" have 127
the same meanings as in section 3959.01 of the Revised Code. 128

(5) "Terminal distributor of dangerous drugs" has the same 129
meaning as in section 4729.01 of the Revised Code. 130

(B) A health plan issuer, pharmacy benefit manager, or any 131
other administrator shall not do any of the following: 132

(1) Require cost-sharing in an amount, or direct a 133
pharmacy to collect cost-sharing in an amount, greater than the 134
amount an individual would pay for the drug if the drug were 135
purchased without coverage under a health benefit plan; 136

(2) Prohibit a terminal distributor of dangerous drugs, an 137
employee of the terminal distributor, or a pharmacist from 138
providing to the covered person information about the covered 139
person's health benefit plan's cost-sharing requirements with 140
regard to a drug in question, as permitted under section 4729.48 141
of the Revised Code; 142

(3) Impose a penalty or fee on a pharmacy for complying 143
with this section. 144

(C) A health plan issuer shall not exclude any amount paid 145
by a covered person in accordance with division (B) (1) of this 146
section from the covered person's annual out-of-pocket maximum. 147

Sec. 4729.48. A terminal distributor of dangerous drugs, 148
or a pharmacist or other employee of the terminal distributor, 149
may provide to a patient information about the patient's cost- 150
sharing responsibility for a prescription drug under the 151
patient's health benefit plan and may notify the patient if the 152
cost-sharing amount exceeds the amount that may be otherwise 153
charged for the drug. 154

Sec. 5162.201. (A) As used in this section, "pharmacy 155
benefit manager" has the same meaning as in section 3959.01 of 156
the Revised Code. 157

(B) The department of medicaid, or a pharmacy benefit 158
manager administering the medicaid program's coverage of 159

prescribed drugs, shall not do any of the following: 160

(1) Implement a cost-sharing requirement under section 161
5162.20 of the Revised Code that requires a medicaid recipient 162
to pay an amount for a prescribed drug that exceeds the amount 163
the recipient would pay for the drug if the recipient purchased 164
the drug without medicaid coverage; 165

(2) Prohibit a terminal distributor of dangerous drugs, or 166
a pharmacist or other employee of the terminal distributor, from 167
providing to a medicaid recipient information about the medicaid 168
program's cost-sharing requirements for a prescribed drug, as 169
permitted under section 4729.48 of the Revised Code; 170

(3) Impose a penalty or fee on a terminal distributor, or 171
a pharmacist or other employee of the terminal distributor, for 172
complying with this section. 173

Section 2. That existing sections 1739.05 and 3959.12 of 174
the Revised Code are hereby repealed. 175

Section 3. Sections 1751.92, 3923.87, and 3959.20 of the 176
Revised Code as enacted by this act apply to contracts for 177
pharmacy services and to health benefit plans, as defined in 178
section 3922.01 of the Revised Code, entered into or amended on 179
or after the effective date of this act. 180

Section 4. Section 1739.05 of the Revised Code is 181
presented in this act as a composite of the section as amended 182
by Sub. H.B. 156, Sub. S.B. 259, and Sub. S.B. 265, all of the 183
132nd General Assembly. The General Assembly, applying the 184
principle stated in division (B) of section 1.52 of the Revised 185
Code that amendments are to be harmonized if reasonably capable 186
of simultaneous operation, finds that the composite is the 187
resulting version of the section in effect prior to the 188

effective date of the section as presented in this act.

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