

SB46 CC #1 3-8

90 Days

Johnson 7909

Delegate Sobonya, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Senate Bill No. 46, Permitting pharmacists to inform customers of lower-cost alternative drugs.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Senate Bill 46 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the strike and insert amendment of the House of Delegates, and that the Senate and House agree to an amendment as follows:

On page one by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 51. PHARMACY AUDIT INTEGRITY AND TRANSPARENCY ACT.

§33-51-9. Regulation of Pharmacy Benefit Managers.

(a) A pharmacy, a pharmacist, and a pharmacy technician shall have the right to provide a covered individual with information related to lower cost alternatives and cost share for such covered individual to assist health care consumers in making informed decisions. Neither a pharmacy, a pharmacist, nor a pharmacy technician shall be penalized by a pharmacy benefit manager for discussing information in this section or for selling a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.

(b) A pharmacy benefit manager shall not collect from a pharmacy, a pharmacist, or a pharmacy technician a cost share charged to a covered individual that exceeds the total submitted charges by the pharmacy or pharmacist to the pharmacy benefit manager.

(c) A pharmacy benefit manager may only directly or indirectly charge or hold a pharmacy, a pharmacist, or a pharmacy technician responsible for a fee related to the adjudication of a claim if:

(1) The total amount of the fee is identified, reported, and specifically explained for each line item on the remittance advice of the adjudicated claim; or

(2) The total amount of the fee is apparent at the point of sale and not adjusted between the point of sale and the issuance of the remittance advice.

(d) This section shall not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D.”

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

Eng. Senate Bill No. 46 – “A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-51-9, all relating to pharmacy benefit managers; providing that a pharmacy, pharmacist, or pharmacy technician may inform consumers of lower cost alternatives and cost share to assist health care consumers in making informed decisions; prohibiting pharmacy benefit managers from penalizing a pharmacy, pharmacist, or pharmacy technician for discussing certain information with consumers; prohibiting pharmacy benefit managers from collecting cost shares exceeding the total submitted charges by a pharmacy, pharmacist, or pharmacy technician; setting forth limitations on pharmacy benefit managers when charging certain adjudicated claim fees to a pharmacy, pharmacist, or pharmacy technician; and excluding an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D from this code section.”

Respectfully submitted,

Kelli Sobonya,

Chair,

Tom Takubo,

Chair,

Ray Hollen,

Sue Cline,

Andrew Byrd,

*Conferees on the part of the House
of Delegates.*

Ron Stollings,

Conferees on the part of the Senate.