

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 46**

SENATORS CLINE AND TAKUBO, *original sponsors*

[Passed March 10, 2018; in effect 90 days from passage]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §33-51-9, relating to pharmacy benefit managers; providing that a pharmacy,  
3 pharmacist, or pharmacy technician may inform consumers of lower cost alternatives and  
4 cost share to assist health care consumers in making informed decisions; prohibiting  
5 pharmacy benefit managers from penalizing a pharmacy, pharmacist, or pharmacy  
6 technician for discussing certain information with consumers; prohibiting pharmacy benefit  
7 managers from collecting cost shares exceeding the total submitted charges by a  
8 pharmacy, pharmacist, or pharmacy technician; setting forth limitations on pharmacy  
9 benefit managers when charging certain adjudicated claim fees to a pharmacy,  
10 pharmacist, or pharmacy technician; and excluding an employee benefit plan under the  
11 Employee Retirement Income Security Act of 1974 or Medicare Part D from this code  
12 section.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 51. PHARMACY AUDIT INTEGRITY AND TRANSPARENCY ACT.**

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

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

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

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2018.

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*Governor*