CHAPTER 510B

REGULATION OF PHARMACY BENEFITS MANAGERS

510B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance.

2. *"Covered entity"* means a nonprofit hospital or medical services corporation, health insurer, health benefit plan, or health maintenance organization; a health program administered by a department or the state in the capacity of provider of health coverage; or an employer, labor union, or other group of persons organized in the state that provides health coverage. *"Covered entity"* does not include a self-funded health coverage plan that is exempt from state regulation pursuant to the federal Employee Retirement Income Security Act of 1974 (ERISA), as codified at 29 U.S.C. § 1001 et seq.; a plan issued for health coverage for federal employees; or a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplemental, disability income, or long-term care, or other limited benefit health insurance policy or contract.

3. *"Covered individual"* means a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity who is provided health coverage by the covered entity, and includes a dependent or other person provided health coverage through a policy, contract, or plan for a covered individual.

4. *"Generic drug"* means a chemically equivalent copy of a brand-name drug with an expired patent.

5. *"Labeler"* means a person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal food and drug administration pursuant to 21 C.F.R. § 207.20.

6. *"Pharmacy"* means pharmacy as defined in section 155A.3.

7. *"Pharmacy benefits management"* means the administration or management of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefits manager and the covered entity.

8. *"Pharmacy benefits manager"* means a person who performs pharmacy benefits management services. *"Pharmacy benefits manager"* includes a person acting on behalf of a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management services for a covered entity. *"Pharmacy benefits manager"* does not include a health insurer licensed in the state if the health insurer or its subsidiary is providing pharmacy benefits management services exclusively to its own insureds, or a public self-funded pool or a private single employer self-funded plan that provides such benefits or services directly to its beneficiaries.

9. *"Prescription drug"* means prescription drug as defined in section 155A.3.

10. *"Prescription drug order"* means prescription drug order as defined in section 155A.3.

2007 Acts, ch 193, §1, 9

510B.2 Certification as a third-party administrator required.

A pharmacy benefits manager doing business in this state shall obtain a certificate as a third-party administrator under chapter 510, and the provisions relating to a third-party administrator pursuant to chapter 510 shall apply to a pharmacy benefits manager.

2007 Acts, ch 193, §2, 9

510B.3 Enforcement — rules.

1. The commissioner shall enforce the provisions of this chapter.

2. The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter including rules relating to all of the following:

a. Timely payment of pharmacy claims.

b. A process for adjudication of complaints and settlement of disputes between a pharmacy benefits manager and a licensed pharmacy related to pharmacy auditing practices, termination of pharmacy agreements, and timely payment of pharmacy claims.

2007 Acts, ch 193, §3, 9

510B.4 Performance of duties — good faith — conflict of interest.

1. A pharmacy benefits manager shall perform the pharmacy benefits manager's duties exercising good faith and fair dealing in the performance of its contractual obligations toward the covered entity.

2. A pharmacy benefits manager shall notify the covered entity in writing of any activity, policy, practice ownership interest, or affiliation of the pharmacy benefits manager that presents any conflict of interest.

2007 Acts, ch 193, §4, 9

510B.5 Contacting covered individual — requirements.

A pharmacy benefits manager, unless authorized pursuant to the terms of its contract with a covered entity, shall not contact any covered individual without the express written permission of the covered entity.

2007 Acts, ch 193, §5, 9

510B.6 Dispensing of substitute prescription drug for prescribed drug.

1. The following provisions shall apply when a pharmacy benefits manager requests the dispensing of a substitute prescription drug for a prescribed drug to a covered individual:

a. The pharmacy benefits manager may request the substitution of a lower priced generic and therapeutically equivalent drug for a higher priced prescribed drug.

b. If the substitute drug's net cost to the covered individual or covered entity exceeds the cost of the prescribed drug, the substitution shall be made only for medical reasons that benefit the covered individual.

2. A pharmacy benefits manager shall obtain the approval of the prescribing practitioner prior to requesting any substitution under this section.

3. A pharmacy benefits manager shall not substitute an equivalent prescription drug contrary to a prescription drug order that prohibits a substitution.

2007 Acts, ch 193, §6, 9

510B.7 Duties to pharmacy network providers.

1. A pharmacy benefits manager shall not mandate basic recordkeeping that is more stringent than that required by state or federal law or regulation.

2. If a pharmacy benefits manager receives notice from a covered entity of termination of the covered entity's contract, the pharmacy benefits manager shall notify, within ten working days of the notice, all pharmacy network providers of the effective date of the termination.

3. Within three business days of a price increase notification by a manufacturer or supplier, a pharmacy benefits manager shall adjust its payment to the pharmacy network provider consistent with the price increase.

2007 Acts, ch 193, §7, 9