

HOUSE FILE 680  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 573)

(As Amended and Passed by the House March 28, 2019)

[ = New Language by the House

\* = Language Stricken by the House

**A BILL FOR**

1 An Act relating to prescription drug benefits, pharmacies,  
2 pharmacy benefit managers, making penalties applicable, and  
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 507B.2, subsection 1, Code 2019, is  
2 amended to read as follows:

3 1. "Person" shall mean any individual, corporation,  
4 association, partnership, reciprocal exchange, interinsurer,  
5 fraternal beneficiary association, and any other legal entity  
6 engaged in the business of insurance, including insurance  
7 producers and adjusters. "Person" shall also mean any  
8 corporation operating under the provisions of chapter 514,  
9 and any benevolent association as defined and operated under  
10 chapter 512A, and any pharmacy benefit manager pursuant to  
11 section 510C.1. For purposes of this chapter, corporations  
12 operating under the provisions of chapter 514 and chapter 512A  
13 shall be deemed to be engaged in the business of insurance.

14 Sec. 2. Section 507B.3, Code 2019, is amended by adding the  
15 following new subsection:

16 NEW SUBSECTION. 3. A person who violates a provision in  
17 chapter 510C.1 shall be deemed to have committed an unfair  
18 trade practice under this chapter.

19 Sec. 3. NEW SECTION. 510C.1 Pharmacy benefit managers —  
20 retail pharmacies.

21 1. As used in this section, unless the context otherwise  
22 requires:

23 a. "Commissioner" means the commissioner of insurance or the  
24 commissioner's designee.

25 b. "Cost sharing" means any copayment, coinsurance,  
26 deductible, or other out-of-pocket expense requirement.

27 c. "Covered person", "health benefit plan", and "health  
28 carrier" mean the same as defined in section 514J.102.

29 [ d. "Otherwise qualified retail pharmacy" means a retail  
30 pharmacy that meets the requirements established by a pharmacy  
31 service administrative organization.]

\* 32 [e.] "Pharmacy" and "prescription drug" mean the same as  
33 defined in section 155A.3.

\* 34 [f.] "Pharmacy benefit manager" means a person who, pursuant  
35 to a contract or other relationship with a health carrier,

1 either directly or through an intermediary, manages a  
2 prescription drug benefit provided by the health carrier and is  
3 certified pursuant to section 510B.2.

\* 4 [g.] "Pharmacy benefit manager's retail pharmacy network" means  
5 retail pharmacies who have contracted with a pharmacy benefit  
6 manager to dispense or sell prescription drugs, other than  
7 specialty drugs, to covered persons of a health carrier.

\* 8 [h.] "Prescription drug benefit" means a health benefit plan  
9 providing for third-party payment or prepayment of prescription  
10 drugs.

\* 11 [i.] "Retail pharmacy" means a pharmacy that is open to the  
12 general public, dispenses prescription drugs to the general  
13 public, and makes face-to-face consultations available  
14 between licensed pharmacists and the general public to whom  
15 prescription drugs are dispensed.

16 [j. "Specialty drug" means a prescription drug that is  
17 designated as a specialty drug by a health carrier and that has  
18 either of the following characteristics:

19 (1) The drug has received an orphan drug designation by the  
20 United States food and drug administration.

21 (2) The drug's manufacturer or the United States food and  
22 drug administration restricts distribution of the drug to a  
23 limited number of distributors.]

24 2. a. An otherwise qualified retail pharmacy that requests  
25 to enter into a contract with a pharmacy benefit manager to  
26 participate in the pharmacy benefit manager's retail pharmacy  
27 network and that accepts the pharmacy benefit manager's  
28 standard terms, conditions, formularies, and requirements  
29 relating to dispensing fees, payments, reimbursement amounts,  
30 and other pharmacy services shall be considered part of the  
31 pharmacy benefit manager's retail pharmacy network for purposes  
32 of a covered person's right to choose where to obtain the  
33 covered person's prescription drugs, other than a specialty  
34 drug.]

35 b. It shall be a violation of this section for a pharmacy

1 benefit manager to refuse to accept an otherwise qualified  
\* 2 retail pharmacy [that meets the criteria] in paragraph "a" as a  
3 part of the pharmacy benefit manager's retail pharmacy network.  
4 It shall also be a violation of this section for a health  
5 carrier which has contracted with the pharmacy benefit manager  
\* 6 to refuse to accept an otherwise qualified retail pharmacy [that  
7 meets the criteria] in paragraph "a" as a part of the pharmacy  
8 benefit manager's retail pharmacy network.

9 c. A contractual relationship entered into by an otherwise  
10 qualified retail pharmacy and a pharmacy benefit manager  
11 establishing the otherwise qualified retail pharmacy as part of  
12 the pharmacy benefit manager's retail pharmacy network shall be  
13 renewed annually unless otherwise agreed to by the otherwise  
14 qualified retail pharmacy, the pharmacy benefit manager, and  
15 the health carrier.

16 d. If a pharmacy benefit manager or a health carrier  
17 considers a retail pharmacy not to be otherwise qualified, the  
18 pharmacy benefit manager or the health carrier may file an  
19 appeal relating to the retail pharmacy's qualifications with  
\* 20 [the insurance commissioner.]

21 e. A pharmacy benefit manager that enters into a contractual  
22 relationship with an otherwise qualified retail pharmacy  
23 establishing the otherwise qualified retail pharmacy as part  
24 of the pharmacy benefit manager's retail pharmacy network, and  
25 a health carrier whose prescription drug benefit the pharmacy  
26 benefit manager is managing, shall not do any of the following:

27 (1) Require a covered person to obtain any prescription  
28 [drug, other than a specialty drug,] exclusively from a mail  
29 order pharmacy.

30 (2) Impose any cost sharing or other condition on a covered  
31 person electing to use the retail pharmacy to obtain the  
32 covered person's prescription drug [other than a specialty  
33 drug,] if the cost sharing or other condition is not imposed  
34 upon a covered person electing to use a mail order pharmacy to  
35 obtain the same prescription drug.

1 (3) Restrict a prescription drug [ other than a specialty  
2 drug, ] dispensed by the retail pharmacy to a covered person to a  
3 minimum or maximum quantity limit, or impose any requirement  
4 related to refills, if the limitations or requirements are not  
5 also imposed on the same prescription drug dispensed by a mail  
6 order pharmacy.

7 (4) Require a covered person to pay in whole or in part for  
8 any prescription drug [ other than a specialty drug, ] dispensed  
9 to the covered person by the retail pharmacy and require the  
10 covered person to seek reimbursement, if the same requirement  
11 is not imposed on a covered person for a prescription drug  
12 dispensed by a mail order pharmacy.

13 (5) Impose any administrative burden, term, condition,  
14 or requirement related to a covered person electing to use a  
15 retail pharmacy that materially or unreasonably interferes with  
16 the covered person's right to obtain a prescription drug [ other  
17 than a specialty drug, ] from the retail pharmacy.

\* 18 [ 3. ] The commissioner may take any action within the  
19 commissioner's authority to enforce compliance with this  
20 section and may assess a pharmacy benefit manager and a health  
21 carrier a fine of up to ten thousand dollars for each violation  
22 of subsection 2.

\* 23 [ 4. ] Failure of a pharmacy benefit manager or of a health  
24 carrier to comply with any provision of this section shall be  
25 an unfair trade practice under section 507B.3, subsection 3.

\* 26 [ 5. ] A pharmacy benefit manager or a health carrier may appeal  
27 any decision of the commissioner in accordance with chapter  
28 17A.

29 [ 6. A pharmacy benefit manager shall reimburse the division  
30 for all costs associated with any examination, investigation,  
31 review, or audit of the pharmacy benefit manager, and a health  
32 carrier shall reimburse the division for all costs associated  
33 with any examination, investigation, review, or audit of the  
34 health carrier. ]

\* 35 [ 7. The commissioner may adopt rules pursuant to chapter ] 17A

1 to administer this section.

2 Sec. 4. Section 514C.5, Code 2019, is amended by striking  
3 the section and inserting in lieu thereof the following:

4 **514C.5 Prescription drug benefits.**

5 1. Notwithstanding the uniformity of treatment requirements  
6 of section 514C.6, a policy, contract, or plan providing for  
7 third-party payment or prepayment of prescription drug benefits  
8 shall not impose any terms, conditions, or requirements upon  
9 a person covered under the policy, contract, or plan for  
10 prescription drugs [ other than a specialty drug as defined  
11 in section 510C.1, ] dispensed by a retail pharmacy which are  
12 different from the terms, conditions, or requirements imposed  
13 for prescription drugs [ other than a specialty drug as defined  
14 in section 510C.1, ] dispensed by a mail order pharmacy.

15 2. This section applies to the following classes of  
16 third-party payment provider policies, contracts, or plans  
17 delivered, issued for delivery, continued, or renewed in this  
18 state on or after January 1, 2020:

19 a. Individual or group accident and sickness insurance  
20 providing coverage on an expense-incurred basis.

21 b. An individual or group hospital or medical service  
22 contract issued pursuant to chapter 509, 514, or 514A.

23 c. An individual or group health maintenance organization  
24 contract regulated under chapter 514B.

25 d. A plan established pursuant to chapter 509A for public  
26 employees.

27 3. This section shall not apply to accident-only,  
28 specified disease, short-term hospital or medical, hospital  
29 confinement indemnity, credit, dental, vision, Medicare  
30 supplement, long-term care, basic hospital and medical-surgical  
31 expense coverage as defined by the commissioner, disability  
32 income insurance coverage, coverage issued as a supplement  
33 to liability insurance, workers' compensation or similar  
\* 34 [ insurance, automobile medical payment insurance, the medical  
35 assistance program pursuant to chapter 249A, the Iowa health

1 and wellness plan pursuant to chapter 249N, or the healthy and  
2 well kids in Iowa program pursuant to chapter 514I.]

\* 3 4. The commissioner of insurance [may] adopt rules pursuant to  
4 chapter 17A to administer this section.

5 Sec. 5. APPLICABILITY. The following apply to a health  
6 benefit plan that is delivered, issued for delivery, continued,  
7 or renewed in this state on or after January 1, 2020:

8 The section of this Act enacting requirements for pharmacy  
9 benefit managers, retail pharmacies, and participation in  
10 pharmacy benefit manager retail pharmacy networks.