

# STATE OF NEW YORK

6274

2019-2020 Regular Sessions

## IN SENATE

May 31, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to amend the public health law, in relation to the substitution of prescriptions by pharmacy benefit managers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new article 29 to read as follows:

### ARTICLE 29

#### PHARMACY BENEFIT MANAGERS

##### Section 2901. Definitions.

2902. Acting without a registration.

2903. Registration requirements for pharmacy benefit managers.

2904. Reporting requirements for pharmacy benefit managers.

2905. Acting without a license.

2906. Licensing of a pharmacy benefit manager.

2907. Revocation or suspension of a registration or license of a pharmacy benefit manager.

2908. Penalties for violations.

2909. Stay or suspension of superintendent's determination.

2910. Revoked registrations or licenses.

2911. Change of address.

2912. Applicability of other laws.

2913. Assessments.

2914. Duty, accountability and transparency.

2915. Contract provisions.

§ 2901. Definitions. For purposes of this article:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13127-01-9

1 (a) "Controlling person" is any person or other entity who or which  
2 directly or indirectly has the power to direct or cause to be directed  
3 the management, control or activities of a pharmacy benefit manager.

4 (b) "Health insurer" means an insurance company authorized in this  
5 state to write accident and health insurance, a company organized pursu-  
6 ant to article forty-three of this chapter, a municipal cooperative  
7 health benefit plan established pursuant to article forty-seven of this  
8 chapter, an organization certified pursuant to article forty-four of the  
9 public health law, an institution of higher education certified pursuant  
10 to section one thousand one hundred twenty-four of this chapter, or the  
11 New York state health insurance plan established under article eleven of  
12 the civil service law.

13 (c) "Pharmacy benefit management services" means directly or through  
14 an intermediary, managing the prescription drug coverage provided by a  
15 health insurer under a contract or policy delivered or issued for deliv-  
16 ery in this state or a plan subject to section three hundred  
17 sixty-four-j of the social services law, including the processing and  
18 payment of claims for prescription drugs, the performance of drug utili-  
19 zation review, the processing of drug prior authorization requests, the  
20 adjudication of appeals or grievances related to prescription drug  
21 coverage, contracting with network pharmacies, negotiation of rebates,  
22 and controlling the cost of covered prescription drugs.

23 (d) "Pharmacy benefit manager" means a person, firm, association,  
24 corporation or other entity that, pursuant to a contract with a health  
25 insurer provides pharmacy benefit management services, except that term  
26 shall not include:

27 (1) an officer or employee of a registered or licensed pharmacy bene-  
28 fit manager; or

29 (2) a health insurer, or any manager thereof, individual or corporate,  
30 or any officer, director or regular salaried employee thereof, providing  
31 pharmacy benefit management services under a policy or contract issued  
32 by the health insurer.

33 § 2902. Acting without a registration. (a) No person, firm, associ-  
34 ation, corporation or other entity may act as a pharmacy benefit manager  
35 prior to January first, two thousand twenty without having a valid  
36 registration as a pharmacy benefit manager filed with the superintendent  
37 in accordance with this article and any regulations promulgated there-  
38 under.

39 (b) Prior to January first, two thousand twenty, no health insurer may  
40 pay any fee or other compensation to any person, firm, association,  
41 corporation or other entity for performing pharmacy benefit management  
42 services unless the person, firm, association, corporation or other  
43 entity is registered as a pharmacy benefit manager in accordance with  
44 this article.

45 (c) Any person, firm, association, corporation or other entity that  
46 violates this section shall, in addition to any other penalty provided  
47 by law, be liable for restitution to any insurer or insured harmed by  
48 the violation and shall also be subject to a penalty of the greater of  
49 (1) two thousand dollars for the first violation and five thousand  
50 dollars for each subsequent violation or (2) the aggregate economic  
51 gross receipts attributable to all violations.

52 § 2903. Registration requirements for pharmacy benefit managers. (a)  
53 Every pharmacy benefit manager that performs pharmacy benefit management  
54 services prior to January first, two thousand twenty-one shall register  
55 with the superintendent in a manner acceptable to the superintendent,  
56 and shall pay a fee of two thousand dollars for each year or fraction of

1 a year in which the registration shall be valid. The superintendent, in  
2 consultation with the commissioner of health, may establish, by regu-  
3 lation, minimum registration standards required for a pharmacy benefit  
4 manager. The superintendent can reject a registration application filed  
5 by a pharmacy benefit manager that fails to comply with the minimum  
6 registration standards.

7 (b) For each business entity, the officer or officers and director or  
8 directors named in the application shall be designated responsible for  
9 the business entity's compliance with the financial services and insur-  
10 ance laws, rules and regulations of this state.

11 (c) Every registration will expire on December thirty-first, two thou-  
12 sand twenty regardless of when registration was first made.

13 (d) Every pharmacy benefit manager that performs pharmacy benefit  
14 management services at any time between January first, two thousand  
15 nineteen and June first, two thousand nineteen, shall make the registra-  
16 tion and fee payment required by subsection (a) of this section on or  
17 before September first, two thousand nineteen. Any other pharmacy bene-  
18 fit manager shall make the registration and fee payment required by  
19 subsection (a) of this section prior to performing pharmacy benefit  
20 management services.

21 (e) Registrants under this section shall be subject to examination by  
22 the superintendent as often as the superintendent may deem it necessary.  
23 The superintendent may promulgate regulations establishing methods and  
24 procedures for facilitating and verifying compliance with the require-  
25 ments of this article and such other regulations as necessary to enforce  
26 the provisions of this article.

27 § 2904. Reporting requirements for pharmacy benefit managers. (a)(1)  
28 On or before July first of each year, beginning in two thousand twenty,  
29 every pharmacy benefit manager shall report to the superintendent, in a  
30 statement subscribed and affirmed as true under penalties of perjury,  
31 the information requested by the superintendent including, without limi-  
32 tation, disclosure of any financial incentive or benefit for promoting  
33 the use of certain drugs and other financial arrangements affecting  
34 health insurers or their policyholders or insureds and any information  
35 relating to the business, financial condition, or market conduct of the  
36 pharmacy benefit manager. The superintendent also may require the filing  
37 of quarterly or other statements, which shall be in such form and shall  
38 contain such matters as the superintendent shall prescribe.

39 (2) The superintendent also may address to any pharmacy benefit manag-  
40 er or its officers any inquiry in relation to its provision of pharmacy  
41 benefit management services or any matter connected therewith. Every  
42 pharmacy benefit manager or person so addressed shall reply in writing  
43 to such inquiry promptly and truthfully, and such reply shall be, if  
44 required by the superintendent, subscribed by such individual, or by  
45 such officer or officers of the pharmacy benefit manager, as the super-  
46 intendent shall designate, and affirmed by them as true under the penal-  
47 ties of perjury.

48 (b) In the event any pharmacy benefit manager or person does not  
49 submit the report required by paragraph one of subsection (a) of this  
50 section or does not provide a good faith response to an inquiry from the  
51 superintendent pursuant to paragraph two of subsection (a) of this  
52 section within a time period specified by the superintendent of not less  
53 than fifteen business days, the superintendent is authorized to levy a  
54 civil penalty, after notice and hearing, against such pharmacy benefit  
55 manager or person not to exceed one thousand dollars per day for each

1 day beyond the date the report is due or the date specified by the  
2 superintendent for response to the inquiry.

3 (c) All information disclosed by a pharmacy benefit manager shall be  
4 deemed confidential and not subject to disclosure unless the superinten-  
5 dent determines that such disclosure is in the public interest, or is  
6 necessary to carry out this article or to allow the department to  
7 perform examinations or investigations authorized by law.

8 § 2905. Acting without a license. (a) No person, firm, association,  
9 corporation or other entity may act as a pharmacy benefit manager on or  
10 after January first, two thousand twenty-one without having authority to  
11 do so by virtue of a license issued in force pursuant to the provisions  
12 of this article.

13 (b) No health insurer may pay any fee or other compensation to any  
14 person, firm, association, corporation or other entity for performing  
15 pharmacy benefit management services on or after January first, two  
16 thousand twenty-one unless the person, firm, association, corporation or  
17 other entity is licensed as a pharmacy benefit manager in accordance  
18 with this article.

19 (c) Any person, firm, association, corporation or other entity that  
20 violates this section shall, in addition to any other penalty provided  
21 by law, be subject to a penalty of the greater of (1) two thousand  
22 dollars for the first violation and five thousand dollars for each  
23 subsequent violation or (2) the aggregate gross receipts attributable to  
24 all violations.

25 § 2906. Licensing of a pharmacy benefit manager. (a) The superinten-  
26 dent may issue a pharmacy benefit manager's license to any person, firm,  
27 association or corporation who or that has complied with the require-  
28 ments of this article, including regulations promulgated by the super-  
29 intendent. The superintendent, in consultation with the commissioner of  
30 health, may establish, by regulation, minimum standards for the issuance  
31 of a license to a pharmacy benefit manager.

32 (b) The minimum standards established under this subsection may  
33 address, without limitation:

34 (1) conflicts of interest between pharmacy benefit managers and health  
35 insurers;

36 (2) deceptive practices in connection with the performance of pharmacy  
37 benefit management services;

38 (3) anti-competitive practices in connection with the performance of  
39 pharmacy benefit management services;

40 (4) unfair claims practices in connection with the performance of  
41 pharmacy benefit management services; and

42 (5) protection of consumers.

43 (c)(1) Any such license issued to a firm or association shall author-  
44 ize all of the members of the firm or association and any designated  
45 employees to act as pharmacy benefit managers under the license, and all  
46 such persons shall be named in the application and supplements thereto.

47 (2) Any such license issued to a corporation shall authorize all of  
48 the officers and any designated employees and directors thereof to act  
49 as pharmacy benefit managers on behalf of such corporation, and all such  
50 persons shall be named in the application and supplements thereto.

51 (3) For each business entity, the officer or officers and director or  
52 directors named in the application shall be designated responsible for  
53 the business entity's compliance with the insurance laws, rules and  
54 regulations of this state.

55 (d)(1) Before a pharmacy benefit manager's license shall be issued or  
56 renewed, the prospective licensee shall properly file in the office of

1 the superintendent a written application therefor in such form or forms  
2 and supplements thereto as the superintendent prescribes, and pay a fee  
3 of two thousand dollars for each year or fraction of a year in which a  
4 license shall be valid.

5 (2) Every pharmacy benefit manager's license issued to a business  
6 entity pursuant to this section shall expire on the thirtieth day of  
7 November of even-numbered years. Every license issued pursuant to this  
8 section to an individual pharmacy benefit manager who was born in an  
9 odd-numbered year, shall expire on the individual's birthday in each  
10 odd-numbered year. Every license issued pursuant to this section to an  
11 individual pharmacy benefit manager who was born in an even-numbered  
12 year, shall expire on the individual's birthday in each even-numbered  
13 year. Every license issued pursuant to this section may be renewed for  
14 the ensuing period of twenty-four months upon the filing of an applica-  
15 tion in conformity with this subsection.

16 (e)(1) If an application for a renewal license shall have been filed  
17 with the superintendent before October first of the year of expiration,  
18 then the license sought to be renewed shall continue in full force and  
19 effect either until the issuance by the superintendent of the renewal  
20 license applied for or until five days after the superintendent shall  
21 have refused to issue such renewal license and given notice of such  
22 refusal to the applicant.

23 (2) Before refusing to renew any license pursuant to this section for  
24 which a renewal application has been filed pursuant to paragraph one of  
25 this subsection, the superintendent shall notify the applicant of the  
26 superintendent's intention to do so and shall give such applicant a  
27 hearing.

28 (f) The superintendent may refuse to issue a pharmacy benefit manag-  
29 er's license if, in the superintendent's judgment, the applicant or any  
30 member, principal, officer or director of the applicant, is not trust-  
31 worthy and competent to act as or in connection with a pharmacy benefit  
32 manager, or that any of the foregoing has given cause for revocation or  
33 suspension of such license, or has failed to comply with any prerequi-  
34 site for the issuance of such license.

35 (g) Licensees and applicants for a license under this section shall be  
36 subject to examination by the superintendent as often as the superinten-  
37 dent may deem it expedient. The superintendent may promulgate regu-  
38 lations establishing methods and procedures for facilitating and verify-  
39 ing compliance with the requirements of this section and such other  
40 regulations as necessary.

41 (h) The superintendent may issue a replacement for a currently  
42 in-force license that has been lost or destroyed. Before the replacement  
43 license shall be issued, there shall be on file in the office of the  
44 superintendent a written application for the replacement license,  
45 affirming under penalty of perjury that the original license has been  
46 lost or destroyed, together with a fee of two hundred dollars.

47 § 2907. Revocation or suspension of a registration or license of a  
48 pharmacy benefit manager. (a) The superintendent may refuse to renew,  
49 may revoke, or may suspend for a period the superintendent determines  
50 the registration or license of any pharmacy benefit manager if, after  
51 notice and hearing, the superintendent determines that the registrant or  
52 licensee or any member, principal, officer, director, or controlling  
53 person of the registrant or licensee, has:

54 (1) violated any insurance laws, or violated any regulation, subpoena  
55 or order of the superintendent or of another state's insurance commis-



1 sioner, or has violated any law in the course of his or her dealings in  
2 such capacity;

3 (2) provided materially incorrect, materially misleading, materially  
4 incomplete or materially untrue information in the registration or  
5 license application;

6 (3) obtained or attempted to obtain a registration or license through  
7 misrepresentation or fraud;

8 (4)(A) used fraudulent, coercive or dishonest practices;

9 (B) demonstrated incompetence;

10 (C) demonstrated untrustworthiness; or

11 (D) demonstrated financial irresponsibility in the conduct of business  
12 in this state or elsewhere;

13 (5) improperly withheld, misappropriated or converted any monies or  
14 properties received in the course of business in this state or else-  
15 where;

16 (6) intentionally misrepresented the terms of an actual or proposed  
17 insurance contract;

18 (7) been convicted of a felony;

19 (8) admitted or been found to have committed any insurance unfair  
20 trade practice or fraud;

21 (9) had a pharmacy benefit manager registration or license, or its  
22 equivalent, denied, suspended or revoked in any other state, province,  
23 district or territory;

24 (10) failed to pay state income tax or comply with any administrative  
25 or court order directing payment of state income tax; or

26 (11) ceased to meet the requirements for registration or licensure  
27 under this article.

28 (b) Before revoking or suspending the registration or license of any  
29 pharmacy benefit manager pursuant to the provisions of this article, the  
30 superintendent shall give notice to the registrant or licensee and to  
31 every sub-licensee and shall hold, or cause to be held, a hearing not  
32 less than ten days after the giving of such notice.

33 (c) If a registration or license pursuant to the provisions of this  
34 article is revoked or suspended by the superintendent, then the super-  
35 intendent shall forthwith give notice to the registrant or licensee.

36 (d) The revocation or suspension of any registration or license pursu-  
37 ant to the provisions of this article shall terminate forthwith such  
38 registration or license and the authority conferred thereby upon all  
39 sub-licensees. For good cause shown, the superintendent may delay the  
40 effective date of a revocation or suspension to permit the registrant or  
41 licensee to satisfy some or all of its contractual obligations to  
42 perform pharmacy benefit management services in the state.

43 (e)(1) No individual, corporation, firm or association whose registra-  
44 tion or license as a pharmacy benefit manager has been revoked pursuant  
45 to subsection (a) of this section, and no firm or association of which  
46 such individual is a member, and no corporation of which such individual  
47 is an officer or director, and no controlling person of the registrant  
48 or licensee shall be entitled to obtain any registration or license  
49 under the provisions of this article for a period of one year after such  
50 revocation, or, if such revocation be judicially reviewed, for one year  
51 after the final determination thereof affirming the action of the super-  
52 intendent in revoking such license.

53 (2) If any such registration or license held by a firm, association or  
54 corporation be revoked, no member of such firm or association and no  
55 officer or director of such corporation or any controlling person of the  
56 registrant or licensee shall be entitled to obtain any registration or

1 license, or to be named as a sub-licensee in any such license, under  
2 this article for the same period of time, unless the superintendent  
3 determines, after notice and hearing, that such member, officer or  
4 director was not personally at fault in the matter on account of which  
5 such registration or license was revoked.

6 (f) If any registered or licensed pharmacy benefit manager or any  
7 person aggrieved shall file with the superintendent a verified complaint  
8 setting forth facts tending to show sufficient ground for the revocation  
9 or suspension of any pharmacy benefit manager's registration or license,  
10 then the superintendent shall, after notice and a hearing, determine  
11 whether such registration or license shall be suspended or revoked.

12 (g) The superintendent shall retain the authority to enforce the  
13 provisions of and impose any penalty or remedy authorized by this chap-  
14 ter against any person or entity who is under investigation for or  
15 charged with a violation of this chapter, even if the person's or enti-  
16 ty's registration or license has been surrendered, or has expired or has  
17 lapsed by operation of law.

18 (h) A registrant or licensee subject to this article shall report to  
19 the superintendent any administrative action taken against the regis-  
20 trant or licensee in another jurisdiction or by another governmental  
21 agency in this state within thirty days of the final disposition of the  
22 matter. This report shall include a copy of the order, consent to order  
23 or other relevant legal documents.

24 (i) Within thirty days of the initial pretrial hearing date, a regis-  
25 trant or licensee subject to this article shall report to the super-  
26 intendent any criminal prosecution of the registrant or licensee taken  
27 in any jurisdiction. The report shall include a copy of the initial  
28 complaint filed, the order resulting from the hearing and any other  
29 relevant legal documents.

30 § 2908. Penalties for violations. (a) The superintendent, in lieu of  
31 revoking or suspending the registration or license of a registrant or  
32 licensee in accordance with the provisions of this article, may in any  
33 one proceeding by order, require the registrant or licensee to pay to  
34 the people of this state a penalty in a sum not exceeding the greater of  
35 (1) two thousand dollars for each offense and five thousand dollars for  
36 each subsequent violation or (2) the aggregate gross receipts attribut-  
37 able to all offenses.

38 (b) Upon the failure of such a registrant or licensee to pay the  
39 penalty ordered pursuant to subsection (a) of this section within twenty  
40 days after the mailing of the order, postage prepaid, registered, and  
41 addressed to the last known place of business of the licensee, unless  
42 the order is stayed by an order of a court of competent jurisdiction,  
43 the superintendent may revoke the registration or license of the regis-  
44 trant or licensee or may suspend the same for such period as the super-  
45 intendent determines.

46 § 2909. Stay or suspension of superintendent's determination. The  
47 commencement of a proceeding under article seventy-eight of the civil  
48 practice law and rules, to review the action of the superintendent in  
49 suspending or revoking or refusing to renew any certificate under this  
50 article, shall stay such action of the superintendent for a period of  
51 thirty days. Such stay shall not be extended for a longer period unless  
52 the court shall determine, after a preliminary hearing of which the  
53 superintendent is notified forty-eight hours in advance, that a stay of  
54 the superintendent's action pending the final determination or further  
55 order of the court will not unduly injure the interests of the people of  
56 the state.

1     § 2910. Revoked registrations or licenses. (a)(1) No person, firm,  
2 association, corporation or other entity subject to the provisions of  
3 this article whose registration or license under this article has been  
4 revoked, or whose registration or license to engage in the business of  
5 pharmacy benefit management in any capacity has been revoked by any  
6 other state or territory of the United States shall become employed or  
7 appointed by a pharmacy benefit manager as an officer, director, manag-  
8 er, controlling person or for other services, without the prior written  
9 approval of the superintendent, unless such services are for maintenance  
10 or are clerical or ministerial in nature.

11     (2) No person, firm, association, corporation or other entity subject  
12 to the provisions of this article shall knowingly employ or appoint any  
13 person or entity whose registration or license issued under this article  
14 has been revoked, or whose registration or license to engage in the  
15 business of pharmacy benefit management in any capacity has been revoked  
16 by any other state or territory of the United States, as an officer,  
17 director, manager, controlling person or for other services, without the  
18 prior written approval of the superintendent, unless such services are  
19 for maintenance or are clerical or ministerial in nature.

20     (3) No corporation or partnership subject to the provisions of this  
21 article shall knowingly permit any person whose registration or license  
22 issued under this article has been revoked, or whose registration or  
23 license to engage in the business of pharmacy benefit management in any  
24 capacity has been revoked by any other state, or territory of the United  
25 States, to be a shareholder or have an interest in such corporation or  
26 partnership, nor shall any such person become a shareholder or partner  
27 in such corporation or partnership, without the prior written approval  
28 of the superintendent.

29     (b) The superintendent may approve the employment, appointment or  
30 participation of any such person whose registration or license has been  
31 revoked:

32     (1) if the superintendent determines that the duties and responsibil-  
33 ities of such person are subject to appropriate supervision and that  
34 such duties and responsibilities will not have an adverse effect upon  
35 the public, other registrants or licensees, or the registrant or licen-  
36 see proposing employment or appointment of such person; or

37     (2) if such person has filed an application for reregistration or  
38 relicensing pursuant to this article and the application for reregistra-  
39 tion or relicensing has not been approved or denied within one hundred  
40 twenty days following the filing thereof, unless the superintendent  
41 determines within the said time that employment or appointment of such  
42 person by a registrant or licensee in the conduct of a pharmacy benefit  
43 management business would not be in the public interest.

44     (c) The provisions of this section shall not apply to the ownership of  
45 shares of any corporation registered or licensed pursuant to this arti-  
46 cle if the shares of such corporation are publicly held and traded in  
47 the over-the-counter market or upon any national or regional securities  
48 exchange.

49     § 2911. Change of address. A registrant or licensee under this article  
50 shall inform the superintendent by a means acceptable to the superinten-  
51 dent of a change of address within thirty days of the change.

52     § 2912. Applicability of other laws. Nothing in this article shall be  
53 construed to exempt a pharmacy benefit manager from complying with the  
54 provisions of articles twenty-one and forty-nine of this chapter and  
55 article forty-nine of the public health law or any other provision of  
56 this chapter or the financial services law.



1     § 2913. Assessments. Pharmacy benefit managers that file a registra-  
2 tion with the department or are licensed by the department shall be  
3 assessed by the superintendent for the operating expenses of the depart-  
4 ment that are solely attributable to regulating such pharmacy benefit  
5 managers in such proportions as the superintendent shall deem just and  
6 reasonable.

7     § 2914. Duty, accountability and transparency. (a) A pharmacy benefit  
8 manager shall have a fiduciary relationship with and an obligation to  
9 the health insurer and shall perform pharmacy benefit management  
10 services with care, skill, prudence, diligence, and professionalism.

11     (b) All funds received by a pharmacy benefit manager in relation to  
12 providing pharmacy benefit management services shall be received by the  
13 pharmacy benefit manager in trust for the health plan and shall be used  
14 or distributed only pursuant to the pharmacy benefit manager's contract,  
15 or other terms in the absence of a contract, with the health insurer or  
16 applicable law; except for any administrative fee or payment expressly  
17 provided for in the contract, or other terms in the absence of a  
18 contract, between the pharmacy benefit manager and the health insurer or  
19 provider to compensate the pharmacy benefit manager for his or her  
20 services.

21     (c) Each pharmacy benefit manager shall periodically account to the  
22 health insurer for all funds received by the pharmacy benefit manager.  
23 The health plan or provider shall have access to all financial and  
24 utilization information of the pharmacy benefit manager in relation to  
25 pharmacy benefit management provided to the health plan or provider.

26     (d) The pharmacy benefit manager shall disclose in writing to the  
27 health insurer the terms and conditions of any contract or arrangement  
28 between the pharmacy benefit manager and any party relating to pharmacy  
29 benefit management services provided to the health insurer.

30     (e) The pharmacy benefit manager shall disclose in writing to the  
31 health insurer any activity, policy, practice, contract or arrangement  
32 of the pharmacy benefit manager that directly or indirectly presents any  
33 conflict of interest with the pharmacy benefit manager's relationship  
34 with or obligation to the health insurer.

35     (f) Any information required to be disclosed by a pharmacy benefit  
36 manager to a health insurer under this section that is reasonably desig-  
37 nated by the pharmacy benefit manager as proprietary or trade secret  
38 information shall be kept confidential by the health insurer, except as  
39 required or permitted by law, including disclosure necessary to prose-  
40 cute or defend any legitimate legal claim or cause of action.

41     (g) The superintendent shall establish, by regulation, minimum stand-  
42 ards for pharmacy benefit management services which shall address the  
43 elimination of conflicts of interest between pharmacy benefit managers  
44 and health insurers; and the elimination of deceptive practices, anti-  
45 competitive practices, and unfair claims practices.

46     § 2915. Contract provisions. No pharmacy benefit manager shall, with  
47 respect to contracts between such pharmacy benefit manager and a pharma-  
48 cy or, alternatively, such pharmacy benefit manager and a pharmacy's  
49 contracting agent, such as a pharmacy services administrative organiza-  
50 tion:

51     (a) prohibit or penalize a pharmacist or pharmacy from disclosing to  
52 an individual purchasing a prescription medication information regard-  
53 ing:

54     (1) the cost of the prescription medication to the individual, or

1 (2) the availability of any therapeutically equivalent alternative  
2 medications or alternative methods of purchasing the prescription medi-  
3 cation, including but not limited to, paying a cash price;

4 (b) charge or collect from an individual a copayment that exceeds the  
5 total submitted charges by the pharmacy for which the pharmacy is paid.  
6 If an individual pays a copayment, the pharmacy shall retain the adjudi-  
7 cated costs and the pharmacy benefit manager shall not redact or recoup  
8 the adjudicated cost; or

9 (c) require a pharmacy to meet any pharmacy accreditation standard or  
10 recertification requirement inconsistent with, more stringent than, or  
11 in addition to federal and state requirements for licensure as a pharma-  
12 cy.

13 § 2. Subdivision 4 of section 280-a of the public health law is renum-  
14 bered subdivision 5 and a new subdivision 4 is added to read as follows:

15 4. No pharmacy benefit manager shall substitute or cause the substi-  
16 tuting of one prescription drug for another in dispensing a prescription  
17 or alter or cause the altering of the term of a prescription, except  
18 with approval of the prescriber or as explicitly required or permitted  
19 by law.

20 § 3. Subsection (b) of section 2402 of the insurance law, as amended  
21 by section 71 of part A of chapter 62 of the laws of 2011, is amended to  
22 read as follows:

23 (b) "Defined violation" means the commission by a person of an act  
24 prohibited by: subsection (a) of section one thousand one hundred two,  
25 section one thousand two hundred fourteen, one thousand two hundred  
26 seventeen, one thousand two hundred twenty, one thousand three hundred  
27 thirteen, subparagraph (B) of paragraph two of subsection (i) of section  
28 one thousand three hundred twenty-two, subparagraph (B) of paragraph two  
29 of subsection (i) of section one thousand three hundred twenty-four, two  
30 thousand one hundred two, two thousand one hundred seventeen, two thou-  
31 sand one hundred twenty-two, two thousand one hundred twenty-three,  
32 subsection (p) of section two thousand three hundred thirteen, section  
33 two thousand three hundred twenty-four, two thousand five hundred two,  
34 two thousand five hundred three, two thousand five hundred four, two  
35 thousand six hundred one, two thousand six hundred two, two thousand six  
36 hundred three, two thousand six hundred four, two thousand six hundred  
37 six, two thousand seven hundred three, two thousand nine hundred two,  
38 two thousand nine hundred five, three thousand one hundred nine, three  
39 thousand two hundred twenty-four-a, three thousand four hundred twenty-  
40 nine, three thousand four hundred thirty-three, paragraph seven of  
41 subsection (e) of section three thousand four hundred twenty-six, four  
42 thousand two hundred twenty-four, four thousand two hundred twenty-five,  
43 four thousand two hundred twenty-six, seven thousand eight hundred nine,  
44 seven thousand eight hundred ten, seven thousand eight hundred eleven,  
45 seven thousand eight hundred thirteen, seven thousand eight hundred  
46 fourteen and seven thousand eight hundred fifteen of this chapter; or  
47 section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one  
48 hundred five of the penal law.

49 § 4. This act shall take effect immediately and shall be deemed to  
50 have been in full force and effect on and after July 1, 2019.