

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATORS GIESSEL BY REQUEST, Bjorkman, Myers, Tobin, Gray-Jackson, Claman

Introduced: 2/8/24

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Pharmacy; relating to insurance; relating to
2 pharmacies; relating to pharmacists; relating to pharmacy benefits managers; relating
3 to patient choice of pharmacy; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 08.80.030(b) is amended to read:

6 (b) In order to fulfill its responsibilities, the board has the powers necessary
7 for implementation and enforcement of this chapter, including the power to

8 (1) elect a president and secretary from its membership and adopt rules
9 for the conduct of its business;

10 (2) license by examination or by license transfer the applicants who are
11 qualified to engage in the practice of pharmacy;

12 (3) assist the department in inspections and investigations for
13 violations of this chapter, or of any other state or federal statute relating to the practice
14 of pharmacy;

- 1 (4) adopt regulations to carry out the purposes of this chapter;
- 2 (5) establish and enforce compliance with professional standards and
3 rules of conduct for pharmacists engaged in the practice of pharmacy;
- 4 (6) determine standards for recognition and approval of degree
5 programs of schools and colleges of pharmacy whose graduates shall be eligible for
6 licensure in this state, including the specification and enforcement of requirements for
7 practical training, including internships;
- 8 (7) establish for pharmacists and pharmacies minimum specifications
9 for the physical facilities, technical equipment, personnel, and procedures for the
10 storage, compounding, and dispensing of drugs or related devices, and for the
11 monitoring of drug therapy, including independent monitoring of drug therapy;
- 12 (8) enforce the provisions of this chapter relating to the conduct or
13 competence of pharmacists practicing in the state, and the suspension, revocation, or
14 restriction of licenses to engage in the practice of pharmacy;
- 15 (9) license and regulate the training, qualifications, and employment of
16 pharmacy interns and pharmacy technicians;
- 17 (10) license and regulate the qualifications of entities and individuals
18 engaged in the manufacture or distribution of drugs and related devices;
- 19 (11) establish and maintain a controlled substance prescription
20 database as provided in AS 17.30.200;
- 21 (12) establish standards for the independent prescribing and
22 administration of vaccines and related emergency medications under AS 08.80.168,
23 including the completion of an immunization training program approved by the board
24 and an epinephrine auto-injector training program under AS 17.22.020(b);
- 25 (13) establish standards for the independent prescribing and dispensing
26 by a pharmacist of an opioid overdose drug under AS 17.20.085, including the
27 completion of an opioid overdose training program approved by the board;
- 28 (14) require that a licensed pharmacist who dispenses a schedule II, III,
29 or IV controlled substance under federal law to a person in the state register with the
30 controlled substance prescription database under AS 17.30.200(n);
- 31 (15) establish the qualifications and duties of the executive

1 administrator and delegate authority to the executive administrator that is necessary to
2 conduct board business;

3 (16) license and inspect the facilities of pharmacies, manufacturers,
4 wholesale drug distributors, third-party logistics providers, and outsourcing facilities
5 located outside the state under AS 08.80.159;

6 (17) license Internet-based pharmacies providing services to residents
7 in the state;

8 (18) adopt regulations pertaining to retired pharmacist status;

9 **(19) prohibit, limit, or provide conditions relating to the dispensing**
10 **of a prescription drug that the United States Food and Drug Administration or**
11 **the prescription drug's manufacturer has not approved for self-administration to**
12 **ensure the effectiveness and security of a prescription drug to be administered by**
13 **infusion or in a clinical setting.**

14 * **Sec. 2.** AS 21.27.901 is amended to read:

15 **Sec. 21.27.901. Registration of pharmacy benefits managers; scope of**
16 **business practice.** (a) A person may not conduct business in the state as a pharmacy
17 benefits manager unless the person is registered with the director [AS A THIRD-
18 PARTY ADMINISTRATOR UNDER AS 21.27.630].

19 (b) A pharmacy benefits manager registered under **this section**
20 [AS 21.27.630] may

21 (1) contract with an insurer to administer or manage pharmacy benefits
22 provided by an insurer for a covered person, including claims processing services for
23 and audits of payments for prescription drugs and medical devices and supplies; **and**

24 (2) contract with network pharmacies [;

25 (3) SET THE COST OF MULTI-SOURCE GENERIC DRUGS
26 UNDER AS 21.27.945; AND

27 (4) ADJUDICATE APPEALS RELATED TO MULTI-SOURCE
28 GENERIC DRUG REIMBURSEMENT].

29 * **Sec. 3.** AS 21.27.901 is amended by adding new subsections to read:

30 (c) A pharmacy benefits manager

31 (1) shall apply for registration following the same procedures for

1 licensure set out in AS 21.27.040;

2 (2) is subject to hearings and orders on violations; denial, nonrenewal,
3 suspension, or revocation of registration; penalties; and surrender of registration under
4 the procedures set out in AS 21.27.405 - 21.27.460.

5 (d) Each day that a pharmacy benefits manager conducts business in the state
6 as a pharmacy benefits manager without being registered is a separate violation of this
7 section, and each separate violation is subject to the maximum civil penalty under
8 AS 21.97.020.

9 * **Sec. 4.** AS 21.27.905(a) is amended to read:

10 (a) A pharmacy benefits manager shall biennially renew a registration with the
11 director **following the procedures for license renewal in AS 21.27.380.**

12 * **Sec. 5.** AS 21.27 is amended by adding a new section to read:

13 **Sec. 21.27.907. Fiduciary duty.** (a) A pharmacy benefits manager owes a
14 fiduciary duty to a plan sponsor. A pharmacy benefits manager shall adhere to the
15 practices set out in this section.

16 (b) A pharmacy benefits manager shall

17 (1) perform the manager's duties with care, skill, prudence, and
18 diligence and in accordance with the standards of conduct applicable to a fiduciary in
19 an enterprise of a like character and with like aims; and

20 (2) notify the plan sponsor in writing of any activity, policy, or practice
21 of the pharmacy benefits manager that directly or indirectly presents any conflict of
22 interest with the duties imposed by this chapter.

23 (c) A pharmacy benefits manager that receives from a drug manufacturer or
24 labeler a payment or benefit of any kind in connection with the use of a prescription
25 drug by a covered person, including a payment or benefit based on volume of sales or
26 market share, shall pass that payment or benefit on in full to the plan sponsor. This
27 provision does not prohibit the insurer from agreeing by contract to compensate the
28 pharmacy benefits manager by returning a portion of the benefit or payment to the
29 pharmacy benefits manager.

30 (d) Upon request by a plan sponsor, a pharmacy benefits manager shall

31 (1) provide information showing the quantity of drugs purchased by

1 the covered person and the net cost to the covered person for the drugs; the
 2 information must include all rebates, discounts, and other similar payments; if
 3 requested by the plan sponsor, the pharmacy benefits manager shall provide the
 4 quantity and net cost information on a drug-by-drug basis by National Drug Code
 5 registration number rather than on an aggregated basis; and

6 (2) disclose to the plan sponsor all financial terms and arrangements
 7 for remuneration of any kind that apply between the pharmacy benefits manager and a
 8 prescription drug manufacturer or labeler, including formulary management and drug-
 9 substitution programs, educational support, claims processing, and data sales fees.

10 (e) A pharmacy benefits manager providing information to a plan sponsor
 11 under (d) of this section may designate that information as confidential. Information
 12 designated as confidential may not be disclosed by the plan sponsor to another person
 13 without the consent of the pharmacy benefits manager, unless ordered by a court.

14 (f) If a pharmacy dispenses a substitute prescription drug for a prescribed drug
 15 to a covered person and the substitute prescription drug costs more than the prescribed
 16 drug, the pharmacy benefits manager shall disclose to the plan sponsor the cost of both
 17 drugs and any benefit or payment directly or indirectly accruing to the pharmacy
 18 benefits manager as a result of the substitution. The pharmacy benefits manager shall
 19 transfer in full to the plan sponsor a benefit or payment received in any form by the
 20 pharmacy benefits manager as a result of a prescription drug substitution.

21 * **Sec. 6.** AS 21.27.945(a) is amended to read:

22 (a) A pharmacy benefits manager shall

23 (1) **provide** [MAKE AVAILABLE] to each network pharmacy at the
 24 beginning of the term of the network pharmacy's contract, and upon renewal of the
 25 contract, the methodology and sources used to determine the [DRUG PRICING] list;

26 **(2) provide the list to a network pharmacy without charge;**

27 **(3) [(2)] provide and keep current** a telephone number at which a
 28 network pharmacy may contact an employee of a pharmacy benefits manager [TO
 29 DISCUSS THE PHARMACY'S APPEAL];

30 **(4) [(3)] provide** a process for a network pharmacy to have ready
 31 access to the list specific to that pharmacy;

1 **(5)** [(4)] review and update [APPLICABLE] list information at least
 2 once every seven [BUSINESS] days to **ensure** [REFLECT MODIFICATION OF] list
 3 pricing **reflects current national drug database pricing**;

4 **(6)** [(5)] update list prices within one business day after a significant
 5 price update or modification provided by the pharmacy benefits manager's national
 6 drug database provider; and

7 **(7)** [(6)] ensure that dispensing fees are not included in the calculation
 8 of the list pricing.

9 * **Sec. 7.** AS 21.27.945(b) is repealed and reenacted to read:

10 (b) Before placing or maintaining a specific drug on the list, a pharmacy
 11 benefits manager shall ensure that

12 (1) if the drug is therapeutically equivalent and pharmaceutically
 13 equivalent to a prescribed drug, the drug is listed as therapeutically equivalent and
 14 pharmaceutically equivalent "A" or "B" rated in the most recent edition or supplement
 15 of the United States Food and Drug Administration's Approved Drug Products with
 16 Therapeutic Equivalence Evaluations, also known as the Orange Book;

17 (2) if the drug is a different biological product than a prescribed drug,
 18 the drug is an interchangeable biological product;

19 (3) the drug is readily available for purchase by each pharmacy in the
 20 state from national or regional wholesalers operating in the state; and

21 (4) the drug is not obsolete or temporarily unavailable.

22 * **Sec. 8.** AS 21.27.945 is amended by adding new subsections to read:

23 (c) The list a pharmacy benefits manager provides to a network pharmacy
 24 under (a) of this section must

25 (1) be maintained in a searchable electronic format that is accessible
 26 with a computer;

27 (2) identify each drug for which a reimbursement amount is
 28 established;

29 (3) specify for each drug

30 (A) the national drug code;

31 (B) the national average drug acquisition cost, if available;

1 (C) the wholesale acquisition cost, if available; and

2 (D) the reimbursement amount; and

3 (4) specify the date on which a drug is added or removed from the list.

4 (d) In this section,

5 (1) "interchangeable biological product" has the meaning given in
6 AS 08.80.480;

7 (2) "pharmaceutically equivalent" means a drug has identical amounts
8 of the same active chemical ingredients in the same dosage form and meets the
9 standards of strength, quality, and purity according to the United States Pharmacopeia
10 published by the United States Pharmacopeial Convention or another similar
11 nationally recognized publication;

12 (3) "pharmacy acquisition cost" means the amount that a
13 pharmaceutical wholesaler or distributor charges for a pharmaceutical product as listed
14 on the pharmacy's invoice;

15 (4) "significant price update or modification" means

16 (A) an increase or decrease of 10 percent or more in the
17 pharmacy acquisition cost from 60 percent or more of the pharmaceutical
18 wholesalers doing business in the state;

19 (B) a change in the methodology in which the maximum
20 allowable cost for a drug is determined; or

21 (C) a change in the value of a variable involved in the
22 methodology used to determine the maximum allowable cost for a drug;

23 (5) "therapeutically equivalent" means a drug is from the same
24 therapeutic class as another drug and, when administered in an appropriate amount,
25 provides the same therapeutic effect as, and is identical in duration and intensity to,
26 the other drug;

27 (6) "therapeutic class" means a group of similar drug products that
28 have the same or similar mechanisms of action and are used to treat a specific
29 condition.

30 * **Sec. 9.** AS 21.27.950 is repealed and reenacted to read:

31 **Sec. 21.27.950. Reimbursement.** (a) A pharmacy benefits manager shall

1 reimburse a pharmacy or pharmacist for a drug in an amount not less than the national
 2 average drug acquisition cost for the drug on the date that the drug is administered or
 3 dispensed. If the national average drug acquisition cost is not available at the time a
 4 drug is administered or dispensed, a pharmacy benefits manager shall reimburse in an
 5 amount that is not less than the wholesale acquisition cost of the drug. If the wholesale
 6 acquisition cost of the drug is not available at the time a drug is administered or
 7 dispensed, a pharmacy benefits manager shall reimburse in an amount that is not less
 8 than the pharmacy acquisition cost of the drug.

9 (b) In addition to the reimbursement required under (a) of this section, a
 10 pharmacy benefits manager shall reimburse the pharmacy or pharmacist for a
 11 professional dispensing fee set by the director.

12 (c) The director shall periodically review dispensing fees paid under coverage
 13 provided to individuals entitled to medical benefits under AS 39.30.091 and available
 14 cost of dispensing surveys, including surveys conducted by the Department of Health
 15 for the medical assistance program under AS 47.07 and the national average drug
 16 acquisition cost retail price survey conducted by the federal Centers for Medicare and
 17 Medicaid Services. The director shall set and adjust the professional dispensing fee
 18 accordingly. The director shall adjust the professional dispensing fee at least once
 19 every five years.

20 * **Sec. 10.** AS 21.27 is amended by adding new sections to read:

21 **Sec. 21.27.951. Patient choice of pharmacy.** (a) An insurer providing a
 22 covered person with a health care insurance plan and its pharmacy benefits manager
 23 may not

24 (1) prohibit or limit the person receiving pharmacy services under the
 25 insurer's health care insurance plan, including mail-order and specialty pharmacy
 26 services, from selecting a pharmacy of the person's choice to provide the pharmacy
 27 services if the pharmacy has notified the insurer, or the pharmacy benefits manager
 28 authorized to act on the insurer's behalf, of the pharmacy's agreement to accept as
 29 payment in full reimbursement for the pharmacy's services at rates applicable to
 30 pharmacies that are administered by the insurer or its pharmacy benefits manager,
 31 including any copayment required by the insurer's health care insurance plan; or

1 (2) restrict access to drugs by limiting distribution of a drug through an
2 affiliate, except to the extent necessary to meet limited distribution requirements of the
3 United States Food and Drug Administration or to ensure the appropriate dispensing
4 of a drug that requires extraordinary special handling, provider coordination, or patient
5 education when those requirements cannot be met by a network pharmacy; an insurer
6 or its pharmacy benefits manager who restricts drug access, or limits drug distribution
7 under the exceptions allowed by this paragraph shall, upon request, promptly provide
8 a pharmacy or pharmacist with a complete written description of all extraordinary
9 special handling, provider coordination, and patient education requirements necessary
10 for the distribution or dispensing of a drug; in this paragraph, "affiliate" means a
11 business, pharmacy, pharmacist, or provider who, directly or indirectly through one or
12 more intermediaries, controls, is controlled by, or is under common control with a
13 pharmacy benefits manager.

14 (b) An insurer providing a covered person with a health care insurance plan
15 and its pharmacy benefits manager shall permit a pharmacy or pharmacist to enter into
16 a direct service agreement or network pharmacy agreement with the insurer or its
17 pharmacy benefits manager if the pharmacy or pharmacist

18 (1) meets the terms and conditions of participation in the direct service
19 agreement or network pharmacy agreement;

20 (2) agrees to provide pharmacy services, including drugs, that meet the
21 terms and conditions required under the insurer's health care insurance plan, including
22 the terms of reimbursement; and

23 (3) not later than 30 days after being requested in writing to do so by
24 the insurer or its pharmacy benefits manager, executes and delivers to the insurer or its
25 pharmacy benefits manager the direct service agreement or network pharmacy
26 agreement that the insurer or its pharmacy benefits manager requires of all its network
27 pharmacies.

28 (c) An insurer or its pharmacy benefits manager shall act on a pharmacy's or
29 pharmacist's request for a direct service agreement or a network pharmacy agreement
30 not later than 30 days after the insurer or its pharmacy benefits manager receives the
31 pharmacy's or pharmacist's request or, if the insurer or its pharmacy benefits manager

1 requests supplemental information, 30 days after the insurer or its pharmacy benefits
2 manager receives the supplemental information.

3 (d) A network pharmacy or a pharmacy applying to become a network
4 pharmacy under this section shall be presumed to meet the requirements of a specialty
5 pharmacy upon its assertion that it meets the requirements of a specialty pharmacy.

6 (e) In this section,

7 (1) "specialty drug" means a drug that is subject to restricted
8 distribution by the United States Food and Drug Administration;

9 (2) "specialty pharmacy" means a pharmacy capable of meeting the
10 requirements of the United States Food and Drug Administration applicable to
11 specialty drugs.

12 **Sec. 21.27.952. Patient access to clinician-administered drugs.** (a) An
13 insurer or its pharmacy benefits manager may not

14 (1) refuse to authorize, approve, or pay a provider for providing
15 covered clinician-administered drugs and related services to a covered person if the
16 provider has agreed to participate in the insurer's health care insurance plan according
17 to the terms offered by the insurer or its pharmacy benefits manager;

18 (2) if the criteria for medical necessity is met, condition, deny, restrict,
19 refuse to authorize or approve, or reduce payment to a provider for a clinician-
20 administered drug because the provider obtained the clinician-administered drug from
21 a pharmacy that is not a network pharmacy in the insurer's or its pharmacy benefits
22 manager's network;

23 (3) impose coverage or benefit limitations or require a covered person
24 to pay an additional fee, a higher or additional copay or coinsurance, or a penalty
25 when obtaining a clinician-administered drug from a network pharmacy authorized
26 under the laws of this state to dispense or administer the drug;

27 (4) require a covered person to pay an additional fee, a higher or
28 additional copay or coinsurance, or another form of a price increase for a clinician-
29 administered drug when the drug is not dispensed by a pharmacy or acquired from an
30 entity selected by the insurer or its pharmacy benefits manager;

31 (5) interfere with the right of a covered person to obtain a clinician-

1 administered drug from the provider or pharmacy of the person's choice, including by
2 inducement, steering, or offering or promoting financial or other incentives;

3 (6) limit or exclude coverage for a clinician-administered drug when
4 not dispensed by a pharmacy or acquired from an entity selected by the insurer or its
5 pharmacy benefits manager when the drug would otherwise be covered;

6 (7) require a pharmacy to dispense a clinician-administered drug
7 directly to a covered person or agent of the insured with the intention that the covered
8 person or the agent of the insured will transport the medication to a provider for
9 administration;

10 (8) require or encourage the dispensing of a clinician-administered
11 drug to a covered person in a manner that is inconsistent with the supply chain security
12 controls and chain of distribution set by 21 U.S.C. 360eee - 360eee-4 (Drug Supply
13 Chain Security Act);

14 (9) require that a clinician-administered drug be dispensed or
15 administered to a covered person in the residence of the covered person or require use
16 of an infusion site external to the office, department, or clinic of the provider of the
17 covered person; nothing in this paragraph prohibits the insurer or its pharmacy
18 benefits manager, or an agent of the insurer or its pharmacy benefits manager, from
19 offering the use of a home infusion pharmacy or external infusion site.

20 (b) In this section, "clinician-administered drug" means a drug, other than a
21 vaccine, that requires administration by a provider and that the United States Food and
22 Drug Administration or the drug's manufacturer has not approved for self-
23 administration.

24 **Sec. 21.27.953. Penalties.** In addition to any other penalty provided by law, if
25 a person violates AS 21.27.945 - 21.27.955, the director may, after notice and hearing,
26 impose a penalty in accordance with AS 21.27.440.

27 * **Sec. 11.** AS 21.27.955(4) is amended to read:

28 (4) "list" means a [THE] list of [MULTI-SOURCE GENERIC] drugs
29 for which a pharmacy benefits manager has established predetermined
30 reimbursement amounts, or methods for determining reimbursement amounts, to
31 be paid to a network pharmacy or pharmacist for pharmacy services, [AMOUNT

1 HAS BEEN ESTABLISHED] such as a maximum allowable cost or maximum
2 allowable cost list or any other list of prices used by a pharmacy benefits manager;

3 * **Sec. 12.** AS 21.27.955(6) is repealed and reenacted to read:

4 (6) "network pharmacy" means a pharmacy or pharmacist who, under
5 a contract or agreement with the insurer or its pharmacy benefits manager, has agreed
6 to provide pharmacy services to a covered person with an expectation of receiving
7 payment, other than in-network coinsurance, copayments, or deductibles, directly or
8 indirectly from the insurer;

9 * **Sec. 13.** AS 21.27.955 is amended by adding new paragraphs to read:

10 (11) "covered person" means an individual receiving medication
11 coverage or reimbursement provided by an insurer or its pharmacy benefits manager
12 under a health care insurance plan;

13 (12) "drug" means a prescription drug;

14 (13) "health care insurance plan" has the meaning provided in
15 AS 21.54.500;

16 (14) "insurer" has the meaning given in AS 21.97.900 and includes a
17 company or group of companies under common management, ownership, or control;

18 (15) "maximum allowable cost" means the maximum amount that a
19 pharmacy benefits manager will reimburse a pharmacy for the cost of a drug;

20 (16) "national average drug acquisition cost" means the average
21 acquisition cost for outpatient drugs covered by Medicaid, as determined by a monthly
22 survey of retail pharmacies conducted by the federal Centers for Medicare and
23 Medicaid Services;

24 (17) "network" means an entity that, through contracts or agreements
25 with providers, provides or arranges for access by groups of covered persons to health
26 care services by providers who are not otherwise or individually contracted directly
27 with an insurer or its pharmacy benefits manager;

28 (18) "plan sponsor" has the meaning given in AS 21.54.500;

29 (19) "provider" means a physician, pharmacist, hospital, clinic,
30 hospital outpatient department, pharmacy under the common ownership or control of a
31 provider, or other person licensed or otherwise authorized in this state to furnish health

1 care services;

2 (20) "wholesale acquisition cost" has the meaning given in 42 U.S.C.
3 1395w-3a(c)(6)(B).

4 * **Sec. 14.** AS 21.36 is amended by adding a new section to article 5 to read:

5 **Sec. 21.36.520. Unfair trade practices.** (a) An insurer providing a health care
6 insurance plan or its pharmacy benefits manager may not

7 (1) violate AS 21.27.950;

8 (2) interfere with a covered person's right to choose a pharmacy or
9 provider as provided in AS 21.27.951;

10 (3) interfere with a covered person's right of access to a clinician-
11 administered drug as provided in AS 21.27.952;

12 (4) interfere with the right of a pharmacy or pharmacist to participate
13 as a network pharmacy as provided in AS 21.27.951;

14 (5) reimburse a pharmacy or pharmacist an amount less than the
15 amount the pharmacy benefits manager reimburses an affiliate for providing the same
16 pharmacy services, calculated on a per-unit basis using the same generic product
17 identifier or generic code number;

18 (6) impose a copayment, fee, or condition that is not equally imposed
19 on all individuals in the same benefit category, class, or copayment level, whether or
20 not the benefits are furnished by a pharmacy or pharmacist who is not a network
21 pharmacy;

22 (7) steer, invite, or direct a patient to use an affiliate's services through
23 verbal or written communication, including

24 (A) online messaging regarding the affiliate; or

25 (B) patient or prospective patient-specific advertising,
26 marketing, or promotion of the affiliate;

27 (8) impose any monetary advantage, inducement, or penalty that could
28 affect or influence a person's choice among pharmacies that have agreed to participate
29 in the plan according to the terms offered by the insurer or its pharmacy benefits
30 manager, including a higher or additional copayment or fee or promotion of one
31 participating pharmacy over another;

1 (9) impose a reduction in reimbursement for pharmacy services
2 because of the person's choice among pharmacies that have agreed to participate in the
3 plan according to the terms offered by the insurer or its pharmacy benefits manager;

4 (10) use a covered person's pharmacy services data collected under the
5 provision of claims processing services for the purpose of soliciting, marketing, or
6 referring the person to an affiliate of the pharmacy benefits manager;

7 (11) require a covered person, as a condition of payment or
8 reimbursement, to purchase pharmacist services or products, including drugs, through
9 a mail-order pharmacy or pharmacy benefits manager affiliate;

10 (12) prohibit or limit a network pharmacy from mailing, shipping, or
11 delivering drugs to a patient as an ancillary service; however, the insurer or its
12 pharmacy benefits manager

13 (A) is not required to reimburse a delivery fee charged by a
14 pharmacy unless the fee is specified in the contract between the pharmacy
15 benefits manager and the pharmacy;

16 (B) may not require a patient signature as proof of delivery of a
17 mailed or shipped drug if the network pharmacy

18 (i) maintains a mailing or shipping log signed by a
19 representative of the pharmacy or keeps a record of each notification of
20 delivery provided by the United States mail or a package delivery
21 service; and

22 (ii) is responsible for the cost of mailing, shipping, or
23 delivering a replacement for a drug that was mailed or shipped but not
24 received by the covered person;

25 (13) impose on a pharmacist or pharmacy seeking to remain or become
26 a network provider credentialing standards that are more strict than the licensing
27 standards set by the Board of Pharmacy or charge a pharmacy a fee in connection with
28 network enrollment;

29 (14) prohibit or limit a network pharmacy from informing an insured
30 person of the difference between the out-of-pocket cost to the covered person to
31 purchase a drug, medical device, or supply using the covered person's pharmacy

1 benefits and the pharmacy's usual and customary charge for the drug, medical device,
2 or supply;

3 (15) conduct or participate in spread pricing in the state;

4 (16) assess, charge, or collect a form of remuneration that passes from
5 a pharmacy or a pharmacist in a pharmacy network to the pharmacy benefits manager
6 including claim processing fees, performance-based fees, network participation fees,
7 or accreditation fees;

8 (17) reverse and resubmit the claim of a pharmacy more than 30 days
9 after the date the claim was first adjudicated, and may not reverse and resubmit the
10 claim of a pharmacy unless the insurer or pharmacy benefits manager

11 (A) provides prior written notification to the pharmacy;

12 (B) has just cause;

13 (C) first attempts to reconcile the claim with the pharmacy; and

14 (D) provides to the pharmacy, at the time of the reversal and
15 resubmittal, a written description that includes details of and justification for
16 the reversal and resubmittal.

17 (b) A provision of a contract between a pharmacy benefits manager and a
18 pharmacy or pharmacist that is contrary to a requirement of this section is null, void,
19 and unenforceable in this state.

20 (c) A violation of this section or a regulation adopted under this section is an
21 unfair trade practice and subject to penalty under this chapter.

22 (d) For purposes of this section, a violation has occurred each time a
23 prohibited act is committed.

24 (e) Nothing in this section may interfere with or violate a patient's right under
25 AS 08.80.297 to know where the patient may have access to the lowest cost drugs or
26 the requirement that a patient must receive notice of a change to a pharmacy network,
27 including the addition of a new pharmacy or removal of an existing pharmacy from a
28 pharmacy network.

29 (f) The director may adopt regulations to provide a grievance procedure for
30 complaints alleging a violation of this section.

31 (g) In this section,

- 1 (1) "affiliate" has the meaning given in AS 21.27.951(a)(2);
- 2 (2) "clinician-administered drug" has the meaning given in
3 AS 21.27.952(b);
- 4 (3) "covered person" has the meaning given in AS 21.27.955;
- 5 (4) "drug" has the meaning given in AS 21.27.955;
- 6 (5) "health care insurance plan" has the meaning given in
7 AS 21.54.500;
- 8 (6) "insurer" has the meaning given in AS 21.27.955;
- 9 (7) "mail-order pharmacy" means a pharmacy whose primary business
10 is to receive drugs by mail or through electronic submission and to dispense
11 medication to a covered person through the use of the United States mail or other
12 common or contract carrier services and who may provide consultation with a covered
13 person electronically rather than face-to-face;
- 14 (8) "network pharmacy" has the meaning given in AS 21.27.955;
- 15 (9) "out-of-pocket cost" means a deductible, coinsurance, copayment,
16 or similar expense owed by a covered person under the terms of the covered person's
17 health care insurance plan;
- 18 (10) "provider" has the meaning given in AS 21.27.955;
- 19 (11) "spread pricing" means the method of pricing a drug in which the
20 contracted price for a drug that a pharmacy benefits manager charges a health care
21 insurance plan differs from the amount the pharmacy benefits manager directly or
22 indirectly pays the pharmacist or pharmacy for pharmacist services.

23 * **Sec. 15.** AS 29.10.200 is amended by adding a new paragraph to read:

24 (68) AS 29.20.420 (health care insurance plans).

25 * **Sec. 16.** AS 29.20 is amended by adding a new section to article 5 to read:

26 **Sec. 29.20.420. Health care insurance plans.** (a) If a municipality offers a
27 group health care insurance plan covering municipal employees, including by means
28 of self-insurance, the municipal health care insurance plan, including the
29 administration and management of pharmacy benefits under the plan, is subject to the
30 requirements of AS 21.27.901 - 21.27.955 and AS 21.36.520.

31 (b) This section applies to home rule and general law municipalities.

1 (c) In this section, "health care insurance plan" has the meaning given in
2 AS 21.54.500.

3 * **Sec. 17.** AS 39.30.090(a) is amended to read:

4 (a) The Department of Administration may obtain a policy or policies of group
5 insurance covering state employees, persons entitled to coverage under AS 14.25.168,
6 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145,
7 employees of other participating governmental units, or persons entitled to coverage
8 under AS 23.15.136, subject to the following conditions:

9 (1) a group insurance policy shall provide one or more of the following
10 benefits: life insurance, accidental death and dismemberment insurance, weekly
11 indemnity insurance, hospital expense insurance, surgical expense insurance, dental
12 expense insurance, audiovisual insurance, or other medical care insurance;

13 (2) each eligible employee of the state, the spouse and the unmarried
14 children chiefly dependent on the eligible employee for support, and each eligible
15 employee of another participating governmental unit shall be covered by the group
16 policy, unless exempt under regulations adopted by the commissioner of
17 administration;

18 (3) a governmental unit may participate under a group policy if

19 (A) its governing body adopts a resolution authorizing
20 participation and payment of required premiums;

21 (B) a certified copy of the resolution is filed with the
22 Department of Administration; and

23 (C) the commissioner of administration approves the
24 participation in writing;

25 (4) in procuring a policy of group health or group life insurance as
26 provided under this section or excess loss insurance as provided in AS 39.30.091, the
27 Department of Administration shall comply with the dual choice requirements of
28 AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to
29 transact business in the state under AS 21.09, a hospital or medical service corporation
30 authorized to transact business in this state under AS 21.87, or a health maintenance
31 organization authorized to operate in this state under AS 21.86; an excess loss

1 insurance policy may be obtained from a life or health insurer authorized to transact
2 business in this state under AS 21.09 or from a hospital or medical service corporation
3 authorized to transact business in this state under AS 21.87;

4 (5) the Department of Administration shall make available bid
5 specifications for desired insurance benefits or for administration of benefit claims and
6 payments to (A) all insurance carriers authorized to transact business in this state
7 under AS 21.09 and all hospital or medical service corporations authorized to transact
8 business under AS 21.87 who are qualified to provide the desired benefits; and (B)
9 insurance carriers authorized to transact business in this state under AS 21.09, hospital
10 or medical service corporations authorized to transact business under AS 21.87, and
11 third-party administrators licensed to transact business in this state and qualified to
12 provide administrative services; the specifications shall be made available at least once
13 every five years; the lowest responsible bid submitted by an insurance carrier, hospital
14 or medical service corporation, or third-party administrator with adequate servicing
15 facilities shall govern selection of a carrier, hospital or medical service corporation, or
16 third-party administrator under this section or the selection of an insurance carrier or a
17 hospital or medical service corporation to provide excess loss insurance as provided in
18 AS 39.30.091;

19 (6) if the aggregate of dividends payable under the group insurance
20 policy exceeds the governmental unit's share of the premium, the excess shall be
21 applied by the governmental unit for the sole benefit of the employees;

22 (7) a person receiving benefits under AS 14.25.110, AS 22.25,
23 AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in
24 effect under this section at the time of termination of employment with the state or
25 participating governmental unit;

26 (8) a person electing to have insurance under (7) of this subsection
27 shall pay the cost of this insurance;

28 (9) for each permanent part-time employee electing coverage under
29 this section, the state shall contribute one-half the state contribution rate for permanent
30 full-time state employees, and the permanent part-time employee shall contribute the
31 other one-half;

1 (10) a person receiving benefits under AS 14.25, AS 22.25, AS 39.35,
 2 or former AS 39.37 may obtain auditory, visual, and dental insurance for that person
 3 and eligible dependents under this section; the level of coverage for persons over 65
 4 shall be the same as that available before reaching age 65 except that the benefits
 5 payable shall be supplemental to any benefits provided under the federal old age,
 6 survivors, and disability insurance program; a person electing to have insurance under
 7 this paragraph shall pay the cost of the insurance; the commissioner of administration
 8 shall adopt regulations implementing this paragraph;

9 (11) a person receiving benefits under AS 14.25, AS 22.25, AS 39.35,
 10 or former AS 39.37 may obtain long-term care insurance for that person and eligible
 11 dependents under this section; a person who elects insurance under this paragraph
 12 shall pay the cost of the insurance premium; the commissioner of administration shall
 13 adopt regulations to implement this paragraph;

14 (12) each licensee holding a current operating agreement for a vending
 15 facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that
 16 applies to governmental units other than the state;

17 **(13) a group health insurance policy covering employees of a**
 18 **participating governmental unit must meet the requirements of AS 21.27.901 -**
 19 **21.27.955 and AS 21.36.520, including requirements relating to administration**
 20 **and management of pharmacy benefits under the policy.**

21 * **Sec. 18.** AS 39.30.091 is amended to read:

22 **Sec. 39.30.091. Authorization for self-insurance and excess loss insurance.**
 23 Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration
 24 may provide, by means of self-insurance, one or more of the benefits listed in
 25 AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a
 26 collective bargaining agreement and for persons receiving benefits under AS 14.25,
 27 AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department shall
 28 procure any necessary excess loss insurance under AS 39.30.090. **A self-insured**
 29 **group medical plan covering active state employees provided under this section is**
 30 **subject to the requirements of AS 21.27.901 - 21.27.955 and AS 21.36.520,**
 31 **including requirements relating to administration and management of pharmacy**

1 **benefits under the plan.**

2 * **Sec. 19.** AS 45.50.471(b) is amended by adding a new paragraph to read:

3 (58) violating AS 21.36.520(a) (insurers and pharmacy benefits
4 managers), if the violation is committed or performed with a frequency that indicates a
5 general business practice.

6 * **Sec. 20.** AS 21.27.955(5) and 21.27.955(8) are repealed.

7 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. This Act applies to a contract between a pharmacy benefits
10 manager and a pharmacy or pharmacist entered into, renewed, or amended on or after the
11 effective date of secs. 1 - 21 of this Act.

12 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
15 Economic Development and the Department of Administration may adopt regulations
16 necessary to implement the changes made by this Act. The regulations take effect under
17 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
18 implemented by the regulation.

19 * **Sec. 23.** Section 22 of this Act takes effect immediately under AS 01.10.070(c).

20 * **Sec. 24.** Except as provided in sec. 23 of this Act, this Act takes effect July 1, 2025.