HOUSE BILL NO. 628

INTRODUCED BY J. KARJALA

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPORTING OF PRICING FACTORS FOR CERTAIN PRESCRIPTION DRUGS; REQUIRING A REPORT TO THE LEGISLATURE; AND PROVIDING PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 and 2], the following definitions apply:

(1) "Manufacturer" has the meaning provided in 37-7-602.

(2) "Pharmacy benefit manager" means a person who contracts with pharmacies on behalf of an insurer, third-party administrator, or plan sponsor to process claims for prescription drugs, provide retail network management for pharmacies or pharmacists, and pay pharmacies or pharmacists for prescription drugs.

(3) "Prescription drug" means any drug that is required by federal law or regulation to be dispensed only by a prescription subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 353(b).

NEW SECTION. **Section 2. Prescription drug price transparency.** (1) (a) A manufacturer responsible for the national drug code pricing of a prescription drug available in Montana whose wholesale acquisition cost increases by more than triple the increase in the consumer price index for medical care commodities in the previous year shall, at the commissioner's request, provide to the commissioner all relevant information and supporting documentation necessary to justify the wholesale acquisition cost.

(b) The information provided may include but is not limited to:

(i) factors that have contributed to the increased cost of the drug;

(ii) the percentage of the increased cost attributable to each factor; and

(iii) an explanation of the role of each factor in contributing to the cost of the drug.

(2) (a) A pharmacy benefit manager operating in Montana that processes prescriptions for a drug with a wholesale acquisition cost that increases by more than triple the increase in the consumer price index for medical care commodities in the previous year shall, at the commissioner's request, provide to the commissioner information about pricing practices related to the prescription drug.

(b) The information provided may include but is not limited to:

(i) the amount of discounts, rebates, or price concessions it receives from the manufacturer;

(ii) the discounts or price concessions it negotiates with insurers for the drug; and

(iii) whether the pharmacy benefit manager passes rebates, discounts, or price concessions on to the pharmacy or consumer and, if so, the degree to which the price that a pharmacy or consumer pays reflects the rebates, discounts, or price concessions.

(3) The commissioner may establish requirements for the reports required of manufacturers and pharmacy benefit managers under this section.

(4) (a) The commissioner shall provide a report to the legislature on or before December 1 of each even-numbered year based on the information received from manufacturers and pharmacy benefit managers pursuant to this section.

(b) The commissioner shall report to the children, families, health, and human services interim committee by June 30 of each even-numbered year a preliminary summary of the information the commissioner's office has received pursuant to subsections (1) and (2).

(5) Information provided by manufacturers and pharmacy benefit managers pursuant to this section is not a public record as defined in 2-6-1002 and may not be released in a manner that:

(a) identifies an individual drug, manufacturer, or pharmacy benefit manager; or

(b) compromises a patent or the financial, competitive, or proprietary nature of the information.

(6) A manufacturer or pharmacy benefit manager found to be in violation of this section is subject to a civil penalty not to exceed $10,000 for each violation. Each unlawful failure to provide information to the commissioner constitutes a separate violation.

NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 2, and the provisions of Title 33, chapter 2, apply to [sections 1 and 2].

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