

HOUSE BILL NO. 326

INTRODUCED BY J. KARJALA

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPORTING OF PRICING FACTORS FOR CERTAIN PRESCRIPTION DRUGS; REQUIRING A REPORT TO THE GOVERNOR AND 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) Each manufacturer that is responsible for the national drug code pricing of a prescription drug that is made available in Montana and whose wholesale acquisition cost increases by more than twice the increase in the consumer price index for medical care commodities in the previous year shall provide to the attorney general all relevant information and supporting documentation necessary to justify the wholesale acquisition cost.

- (b) The information provided may include:
 - (i) all 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) Each pharmacy benefit manager operating in Montana that processes prescriptions for a drug with a wholesale acquisition cost that increases by more than twice the increase in the consumer price index for medical care commodities in the previous year shall provide to the attorney general information about pricing practices related to the prescription drug.



1 (b) The information provided shall include but is not limited to:
2 (i) the amount of any discounts, rebates, or price concessions it receives from the manufacturer;
3 (ii) the discounts or price concessions it negotiates with insurers for the drug; and
4 (iii) whether the pharmacy benefit manager passes any rebates, discounts, or price concessions on to
5 the pharmacy or consumer and, if so, the degree to which the price that a pharmacy or consumer pays reflects
6 the rebates, discounts, or price concessions.

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

9 (4) (a) The attorney general shall provide a report to the legislature on or before December 1 of each
10 even-numbered year based on the information received from manufacturers and pharmacy benefit managers
11 pursuant to this section. The report must be posted on the department of justice website.

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

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

17 (a) allows for the identification of an individual drug, manufacturer, or pharmacy benefit manager; or

18 (b) is likely to compromise the financial, competitive, or proprietary nature of the information.

19 (6) (a) The attorney general may file an action in district court against a manufacturer or pharmacy
20 benefit manager that fails to provide information in accordance with this section. The action may seek injunctive
21 relief, costs, and attorney fees.

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

25 (7) In an action brought pursuant to this section, the attorney general has the same authority to obtain
26 remedies as if the action were brought under Title 30, chapter 14, part 1.

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28 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
29 as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [sections 1 and 2].

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