



## 2023 South Dakota Legislature

# House Bill 1135

HOUSE COMMERCE AND ENERGY ENGROSSED

Introduced by: **Representative Weisgram**

1 **"An Act to provide for transparency in the pricing of prescription drugs.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 58-29E-1 be AMENDED:**

4 **58-29E-1.** Terms used in this chapter mean:

5 (1) ~~"Covered entity," a nonprofit hospital or medical service corporation, health~~  
 6 ~~insurer, health benefit plan, or health maintenance organization; a health program~~  
 7 ~~administered by a department or the state in the capacity of provider of health~~  
 8 ~~coverage; or an employer, labor union, or other group of persons organized in the~~  
 9 ~~state that provides health coverage to covered individuals who are employed or~~  
 10 ~~reside in the state. The term does not include a self-funded plan that is exempt~~  
 11 ~~from state regulation pursuant to ERISA, a plan issued for coverage for federal~~  
 12 ~~employees, or a health plan that provides coverage only for accidental injury,~~  
 13 ~~specified disease, hospital indemnity, medicare supplement, disability income,~~  
 14 ~~long term care, or other limited benefit health insurance policies and contracts;~~  
 15 "Brand name," the same as set forth in § 36-11-2;

16 (2) "Covered individual," a member, participant, enrollee, contract holder, policy  
 17 holder, or beneficiary of a ~~covered entity~~ third-party payor who is provided health  
 18 coverage by the ~~covered entity~~ third-party payor. The term includes a dependent  
 19 or other ~~person~~ individual provided health coverage through a policy, contract, or  
 20 plan for a covered individual;

21 (3) "Director," ~~the director of the Division of Insurance;~~

22 (4) "Generic drug," a chemically equivalent copy of a brand-~~name~~ drug with an expired  
 23 patent;

24 (5) "Labeler," an entity or person that receives prescription drugs from a manufacturer  
 25 or wholesaler and repackages those drugs for later retail sale and that has a labeler

- 1 code from the federal Food and Drug Administration under 21 C.F.R. § 270.20  
 2 (~~1999~~);
- 3 (4) "Health benefit plan," the same as set forth in § 58-17F-2;
- 4 (5) "Health carrier," the same as set forth in § 58-17F-1;
- 5 (6) "Interchangeable biological product," the same as set forth in § 36-11-2;
- 6 (7) "Maximum allowable cost," the maximum amount that a pharmacy may be  
 7 reimbursed, as set by a pharmacy benefit manager or a third-party payor, for a  
 8 brand name or a generic drug, an interchangeable biological product, or any other  
 9 prescription drug and which may include:
- 10 (a) The average acquisition cost;
- 11 (b) The national average acquisition cost;
- 12 (c) The average manufacturer price;
- 13 (d) The average wholesale price;
- 14 (e) The brand effective rate;
- 15 (f) The generic effective rate;
- 16 (g) Discount indexing;
- 17 (h) Federal upper limits;
- 18 (i) The wholesale acquisition cost; and
- 19 (j) Any other term used by a pharmacy benefit manager or a health carrier to  
 20 establish reimbursement rates for a pharmacy.
- 21 (8) "Maximum allowable cost list," a list of prescription drugs that:
- 22 (a) Includes the maximum allowable cost for each prescription drug; and
- 23 (b) Is used, directly or indirectly, by a pharmacy benefit manager;
- 24 (9) "Pharmaceutical manufacturer," any person engaged in the business of preparing,  
 25 producing, converting, processing, packaging, labeling, or distributing a  
 26 prescription drug, but not including a wholesale distributor or dispenser;
- 27 (10) "Pharmacist," the same as set forth in § 36-11-2;
- 28 (11) "Pharmacy,"
- 29 ~~(a) Is licensed by the State Board of Pharmacy, in accordance with chapter 36-~~  
 30 ~~11;~~
- 31 ~~(b) Is located within or outside of this state; and~~
- 32 ~~(c) Provides for the dispensing of drugs and rendering of pharmaceutical care~~  
 33 ~~to residents of this state the same as set forth in § 36-11-2;~~
- 34 ~~(6)~~(12) "Pharmacy benefits benefit management," the procurement of prescription  
 35 drugs at a negotiated rate for dispensation within this state to covered individuals,

1 the administration or management of prescription drug benefits provided by a  
 2 ~~covered entity third-party payor~~ for the benefit of covered individuals, or any of  
 3 the following services provided with regard to the administration of ~~the following~~  
 4 pharmacy benefits:

- 5 (a) Mail service pharmacy;
- 6 (b) Claims processing, retail network management, and payment of claims to  
 7 pharmacies for prescription drugs dispensed to covered individuals;
- 8 (c) Clinical formulary development and management services;
- 9 (d) Rebate contracting and administration;
- 10 (e) Certain patient compliance, therapeutic intervention, and generic  
 11 substitution programs; and
- 12 (f) Disease management programs involving prescription drug utilization;

13 ~~(7)~~(13) "Pharmacy benefit management fee," a fee that covers the cost of providing  
 14 pharmacy benefit management, but does not exceed the value of the service  
 15 performed by the pharmacy benefit manager;

16 (14) "Pharmacy benefits benefit manager," an entity a person that performs pharmacy  
 17 benefits benefit management. The term, pursuant to a contract or other  
 18 relationship with a third-party payor and includes a:

19 (a) A person or entity acting for a pharmacy benefits manager in a contractual  
 20 or employment relationship in the performance of for a pharmacy benefit  
 21 manager while providing pharmacy benefits benefit management for a  
 22 covered entity third party payor; and includes mail

23 (b) A mail service pharmacy. The term does not include a health carrier licensed  
 24 pursuant to Title 58 when the health carrier or its subsidiary is providing  
 25 pharmacy benefits management to its own insureds; or a public self-funded  
 26 pool or a private single employer self-funded plan that provides such  
 27 benefits or services directly to its beneficiaries;

28 ~~(8)~~(15) "Pharmacy benefit manager affiliate," a pharmacy that, or a pharmacist who,  
 29 directly or indirectly, through one or more intermediaries, owns or controls, is  
 30 owned and controlled by, or is under common ownership or control of, a pharmacy  
 31 benefit manager;

32 (16) (a) ~~The amount charged or claimed by the pharmacy benefit manager in a format~~  
 33 ~~that allows the division to identify all instances of spread pricing; and~~

34 (b) ~~Information regarding shared ownership interest, by any person defined in~~  
 35 ~~this section;~~

- 1       "Pharmacy network," pharmacies that have contracted with a pharmacy benefit  
2       manager to dispense or sell prescription drugs to covered individuals under a health  
3       benefit plan for which the prescription drug benefit is managed by a pharmacy  
4       benefit manager;
- 5       (17) "Prescription drug," a drug classified by the United States Food and Drug  
6       Administration as requiring a prescription by a health care practitioner, prior to  
7       being administered or dispensed to a patient, and including interchangeable  
8       biological products, brand names, and generic drugs;
- 9       (18) "Prescription drug benefit," a health benefit plan providing third-party payment or  
10       prepayment for prescription drugs;
- 11       (19) "Prescription drug order," the same as set forth in § 36-11-2;
- 12       (20) "Proprietary information," information on pricing, costs, revenue, taxes, market  
13       share, negotiating strategies, customers, and personnel held by a private entities  
14       entity and used for that private entity's business purposes;
- 15       ~~(9)~~(21) "Rebate," a discount or other negotiated price concession that is paid directly  
16       or indirectly to a pharmacy benefit manager by a pharmaceutical manufacturer or  
17       by an entity in the prescription drug supply chain, other than a covered individual,  
18       and which is:
- 19       (a) Based on a pharmaceutical manufacturer's list price for a prescription drug;  
20       (b) Based on utilization;
- 21       (c) Designed to maintain, for the pharmacy benefit manager, a net price for a  
22       prescription drug, during a specified period of time, in the event the  
23       pharmaceutical manufacturer's list price increases; or
- 24       (d) Based on estimates regarding the quantity of a prescribed drug that will be  
25       dispensed by a pharmacy to covered individuals;
- 26       (22) "Spread pricing," an amount charged or claimed by a pharmacy benefit manager  
27       that is in excess of the ingredient cost for a dispensed prescription drug, plus a  
28       dispensing fee paid directly or indirectly to a pharmacy, pharmacist, or other  
29       provider, on behalf of the third-party payor, less a pharmacy benefit management  
30       fee;
- 31       (23) "Third-party payor," any entity, other than a covered individual, a covered  
32       individual's representative, or a healthcare provider, which is responsible for any  
33       amount of reimbursement for a prescription drug benefit, provided the term  
34       includes a health carrier and a health benefit plan;

1 ~~(24) "Trade secret," information, including a formula, pattern, compilation, program,~~  
 2 ~~device, method, technique, or process, that:~~

3 ~~(a) Derives independent economic value, actual or potential, from not being~~  
 4 ~~generally known to, and not being readily ascertainable by proper means~~  
 5 ~~by, other persons who can obtain economic value from its disclosure or use;~~  
 6 ~~and~~

7 ~~(b) Is the subject of efforts that are reasonable under the circumstances to~~  
 8 ~~maintain its secrecy the same as set forth in § 37-29-1;~~

9 (25) "Unaffiliated pharmacy," a dispensing pharmacy that is not:

10 (a) Owned, in whole or in part, by a pharmacy benefit manager;

11 (b) A subsidiary of a pharmacy benefit manager; or

12 (c) An affiliate of a pharmacy benefit manager; and

13 (26) "Wholesale distributor,"

14 ~~(a) A manufacturer;~~

15 ~~(b) A manufacturer's co-licensed partner;~~

16 ~~(c) A repackager; or~~

17 ~~(d) A third-party logistics provider the same as set forth in § 36-11A-25.~~

18 **Section 2. That § 58-29E-2 be AMENDED:**

19 **58-29E-2.** ~~No~~ A ~~person or entity may perform or not~~ act as a pharmacy benefits  
 20 benefit manager in this state without a ~~valid~~ license to operate as a third party  
 21 administrator pursuant to chapter 58-29D. Sections 58-29D-26, ~~58-29D-27,~~ and 58-29D-  
 22 29 do not apply to pharmacy benefits managers.

23 **Section 3. That § 58-29E-3 be AMENDED:**

24 **58-29E-3.** Each pharmacy ~~benefits~~ benefit manager shall perform its duties  
 25 ~~exercising in~~ good faith and with fair dealing toward the ~~covered entity~~ third-party payor.

26 **Section 4. That § 58-29E-4 be AMENDED:**

27 **58-29E-4.** A ~~covered entity~~ third-party payor may request that ~~any~~ a pharmacy  
 28 ~~benefits~~ benefit manager, with which it has a pharmacy ~~benefits~~ benefit management  
 29 services contract, disclose to the ~~covered entity~~ third-party payor the amount of all rebate  
 30 revenues and the nature, type, and amounts of all other revenues that the pharmacy

1 ~~benefits-benefit~~ manager receives from each pharmaceutical manufacturer ~~or-labeler~~ with  
 2 ~~whom-which~~ the pharmacy ~~benefits-benefit~~ manager has a contract. ~~The~~

3 Annually, at the time of contract renewal, the pharmacy ~~benefits-benefit~~ manager  
 4 shall disclose in writing:

- 5 (1) The aggregate amount, and for a list of drugs to be specified in the contract, the  
 6 specific amount, of all rebates and other retrospective utilization discounts that are  
 7 received by the pharmacy ~~benefits-benefit~~ manager, directly or indirectly, from  
 8 each pharmaceutical manufacturer ~~or-labeler~~ that, and which are earned in  
 9 connection with the dispensing of prescription drugs to covered individuals of the  
 10 health benefit plans issued by the ~~covered-entity~~ third-party payor or for which the  
 11 ~~covered-entity~~ third-party payor is the designated administrator;
- 12 (2) The nature, type, and amount of all other revenue received by the pharmacy  
 13 ~~benefits-benefit~~ manager, directly or indirectly, from each pharmaceutical  
 14 manufacturer ~~or-labeler~~, for any other products or services, provided to the  
 15 pharmaceutical manufacturer ~~or-labeler~~ by the pharmacy ~~benefits-benefit~~ manager,  
 16 with respect to programs that the ~~covered-entity~~ third-party payor offers or  
 17 provides to its ~~enrollees~~ covered individuals; and
- 18 (3) Any prescription drug utilization information requested by the ~~covered-entity~~ third-  
 19 party payor and relating to covered individuals.

20 A pharmacy ~~benefits-benefit~~ manager shall, within thirty days, provide ~~such-the~~  
 21 information requested by the ~~covered-entity~~ for ~~such-disclosure~~ within thirty days of  
 22 receipt of the request in accordance with this section.

23 If requested, the information ~~shall~~ must be provided no less than once each year.

24 The contract entered into between the pharmacy ~~benefits-benefit~~ manager and the  
 25 ~~covered-entity~~ shall ~~third-party payor~~ must set forth any fees to be charged for drug  
 26 utilization reports requested by the ~~covered-entity~~ third-party payor.

27 **Section 5. That § 58-29E-5 be AMENDED:**

28 **58-29E-5.** A pharmacy ~~benefits-benefit~~ manager, unless authorized pursuant to  
 29 the terms of its contract with a ~~covered-entity~~ third-party payor, may not contact any  
 30 covered individual, without the express written permission of the ~~covered-entity~~ third-party  
 31 payor.

32 **Section 6. That § 58-29E-6 be AMENDED:**

1           **58-29E-6.** Except for utilization information, a ~~covered entity~~third-party payor  
2 shall maintain ~~any~~ information disclosed in response to a request ~~pursuant to~~ under § 58-  
3 29E-4 as confidential and proprietary information, and may not use ~~such that~~ information  
4 for any other purpose or disclose ~~such that~~ information to any other person, except as  
5 provided in this chapter or in the pharmacy ~~benefits~~benefit management services contract  
6 between the parties.

7           ~~Any covered entity who~~A third-party payor that discloses information, in violation  
8 of this section, is subject to an action for injunctive relief and is liable for any damages  
9 ~~which that~~ are the direct and proximate result of ~~such the~~ disclosure.

10           Nothing in this section prohibits a ~~covered entity~~third-party payor from disclosing  
11 confidential or proprietary information to the director, upon request. ~~Any such~~  
12 ~~information~~Information obtained by the director in accordance with this section is  
13 confidential and privileged, and is not open to public inspection or disclosure.

14 **Section 7. That § 58-29E-7 be AMENDED:**

15           **58-29E-7.** ~~The covered entity may have the pharmacy benefits manager's books~~  
16 ~~and records related to the rebates or other information described in subdivisions 58-29E-~~  
17 ~~4(1), (2), and (3), to the extent the information relates directly or indirectly to such~~  
18 ~~covered entity's contract, audited in accordance with the terms of the pharmacy benefits~~  
19 ~~management services contract between the parties. However, if the parties have not~~  
20 ~~expressly provided for audit rights and the pharmacy benefits manager has advised the~~  
21 ~~covered entity that other reasonable options are available and subject to negotiation, the~~  
22 ~~covered entity may have such books and records audited as follows:~~

23           ~~(1) Such audits may be conducted no more frequently than once in each~~  
24 ~~twelve-month period upon not less than thirty business days' written notice to the~~  
25 ~~pharmacy benefits manager;~~

26           ~~(2) The covered entity may select an independent firm to conduct such audit, and~~  
27 ~~such independent firm shall sign a confidentiality agreement with the covered entity and~~  
28 ~~the pharmacy benefits manager ensuring that all information obtained during such audit~~  
29 ~~will be treated as confidential. The firm may not use, disclose, or otherwise reveal any~~  
30 ~~such information in any manner or form to any person or entity except as otherwise~~  
31 ~~permitted under the confidentiality agreement. The covered entity shall treat all~~  
32 ~~information obtained as a result of the audit as confidential, and may not use or disclose~~  
33 ~~such information except as may be otherwise permitted under the terms of the contract~~

~~between the covered entity and the pharmacy benefits manager or if ordered by a court of competent jurisdiction for good cause shown;~~

~~(3) Any such audit shall be conducted at the pharmacy benefits manager's office where such records are located, during normal business hours, without undue interference with the pharmacy benefits manager's business activities, and in accordance with reasonable audit procedures.~~

A third-party payor that has contracted with a licensed pharmacy benefit manager may audit the pharmacy benefit manager once each calendar year. The audit authorized by this section is in addition to any other statutory or contractual audit rights. As part of the audit, a third-party payor may request:

(1) All reimbursements paid to retail pharmacies, on a claim level, for all customers of the pharmacy benefit manager in this state, including ancillary charges, claw backs, dispensing fees, drug-specific reimbursements, other fees, rebates, and reimbursement adjustments;

(2) Differences in reimbursement amounts paid to affiliated and unaffiliated pharmacies, including differences in dispensing fees and reimbursed ingredient costs;

(3) Historical claims data, including:

(a) Acquisition costs;

(b) Administrative fees associated with claims;

(c) Amounts paid by a covered individual;

(d) Amounts paid by a third-party payor;

(e) Channels, whether mail or retail;

(f) Dispensing fees;

(g) Formulary tiers;

(h) Ingredient costs;

(i) Ingredient quantity;

(j) Sales tax;

(k) Supply availability by the number of days; and

(l) Usual and customary prices; and

(4) Aggregate rebate amounts, received by calendar quarter, directly or indirectly from manufacturers, including rebates from other entities affiliated with or related to the pharmacy benefit manager, if those entities negotiate or contract with manufacturers.



1           A pharmacy benefit manager shall, within thirty days, provide the information  
 2           requested in accordance with this section, together with a certification, signed by the chief  
 3           executive officer or the chief financial officer of the pharmacy benefit manager, attesting  
 4           to the accuracy and completeness of the information.

5           **Section 8. That chapter 58-29E be amended with a NEW SECTION:**

6           Except as provided in chapter 58-17K, and in accordance with the audit provisions  
 7           in § 58-29E-7, a third-party payor that has contracted with a licensed pharmacy benefit  
 8           manager may not publish, or directly or indirectly disclose:

- 9           (1) Any information that reveals the identity of a specific third-party payor or  
 10           manufacturer;  
 11           (2) Prices charged for a specific drug or class of drugs;  
 12           (3) The amount of any rebates provided for a specific drug or class of drugs; or  
 13           (4) Any information that has the potential to compromise the financial, competitive, or  
 14           proprietary nature of the pharmacy benefit manager's business.

15           The information referenced in § 58-29E-7 is protected from disclosure as  
 16           confidential and proprietary. The information is privileged and not open to public  
 17           inspection or disclosure.

18           A third-party payor that has contracted with a licensed pharmacy benefit manager  
 19           shall impose the confidentiality protections set forth in § 58-29E-7 on any vendor or third  
 20           party that may receive or have access to the information.

21           **Section 9. That § 58-29E-8 be AMENDED:**

22           ~~**58-29E-8.** With regard to the dispensation of a substitute prescription drug for a~~  
 23           ~~prescribed drug to a covered individual, when the pharmacy benefits manager requests a~~  
 24           ~~substitution, the following provisions apply:~~

25           (1) ~~The~~A pharmacy benefit manager may request the substitution of that  
 26           a lower-priced generic and therapeutically equivalent prescription drug be dispensed to a  
 27           covered individual, as a substitute for a higher-priced ~~prescribed prescription drug;~~

28           (2) ~~With regard to substitutions in which,~~

29           If the substitute prescription drug's net cost is ~~more~~higher for the covered  
 30           individual or the ~~covered entity~~third-party payor than the originally prescribed drug, the  
 31           substitution ~~must~~may be made only for medical reasons that benefit the covered  
 32           individual.

1           If a substitution is being requested pursuant to this ~~subdivision~~section, the  
2 pharmacy ~~benefits~~benefit manager shall ~~must~~ obtain the approval of the prescribing  
3 health professional.

4           Nothing in this section permits the substitution of an equivalent drug product  
5 contrary to § 36-11-46.2.

6 **Section 10. That § 58-29E-8.1 be AMENDED:**

7           **58-29E-8.1.** A pharmacy ~~benefits~~benefit manager may neither prohibit a  
8 pharmacist or pharmacy from, nor penalize a pharmacist or pharmacy for ~~providing cost-~~  
9 ~~sharing information on the amount a covered individual may pay for a particular,~~ informing  
10 a covered individual about:

- 11       (1) The cost of a prescription drug;  
12       (2) The amount of reimbursement that the pharmacy will receive for dispensing the  
13       prescription drug;  
14       (3) The cost and clinical efficacy of a more affordable alternative prescription drug, if  
15       one is available; and  
16       (4) Any differential between the amount a covered individual would pay under the  
17       covered individual's prescription drug benefit and a lower price the covered  
18       individual would pay for the prescription drug, if the covered individual obtained  
19       the prescription drug without making a claim for benefits on the covered  
20       individual's prescription drug benefit.

21 **Section 11. That § 58-29E-10 be AMENDED:**

22           **58-29E-10.** ~~Any covered entity~~A third-party payor may bring a civil action to  
23 enforce ~~the provisions of this chapter or to seek civil damages for the a~~ violation of its  
24 ~~provisions~~this chapter.

25 **Section 12. That § 58-29E-12 be AMENDED:**

26           **58-29E-12.** ~~No~~A pharmacy benefit manager shall ~~may not~~ contractually require  
27 a pharmacy, ~~who~~ that is a participating provider in a health benefit plan provided by a  
28 ~~covered entity, to charge or collect third-party payor, from charging a covered individual~~  
29 ~~or collecting from an insured~~a covered individual a cost share for a prescription drug or  
30 pharmacy service that exceeds the amount retained by the pharmacist or pharmacy from  
31 all payment sources, ~~for the filling of the prescription or providing the pharmacy service.~~

1 **Section 13. That § 58-29E-13 be AMENDED:**

2 **58-29E-13.** ~~No~~ A pharmacy benefit manager contracting with a covered entity  
 3 ~~shall~~ may not, directly or indirectly, retroactively adjust a claim for reimbursement  
 4 submitted by a pharmacy for a prescription drug, ~~unless the adjustment is a result of~~  
 5 ~~either of the following:~~

- 6 (1) ~~A~~ The adjustment is necessitated by a pharmacy audit conducted in accordance  
 7 with chapter 58-29F; ~~or~~  
 8 (2) ~~A~~ The adjustment is necessitated by a technical billing error;  
 9 (3) The original claim was found to have been fraudulently submitted; or  
 10 (4) The claim submission was a duplicate for which the pharmacy had already received  
 11 payment.

12 **Section 14. That chapter 58-29E be amended with a NEW SECTION:**

13 A pharmacy benefit manager may not assess, charge, or collect, from a pharmacy  
 14 or pharmacist, any remuneration or fee, including:

- 15 (1) An accreditation fee;  
 16 (2) A brand effective rate fee;  
 17 (3) A claim processing fee;  
 18 (4) A credentialing fee;  
 19 (5) A dispensing fee;  
 20 (6) An effective rate fee;  
 21 (7) A generic effective rate fee;  
 22 (8) A pharmacy network participation fee; and  
 23 (9) A performance-based fee.

24 **Section 15. That chapter 58-29E be amended with a NEW SECTION:**

25 Prior to placing a prescription drug on a maximum allowable cost list, a pharmacy  
 26 benefit manager shall ensure that the prescription drug is:

- 27 (1) Listed as therapeutically and pharmaceutically equivalent in the latest edition of,  
 28 or any supplement to, the Food and Drug Administration's publication entitled  
 29 Approved Drug Products with Therapeutic Equivalence Evaluations, as adopted by  
 30 the State Board of Pharmacy, in rules promulgated pursuant to chapter 1-26;  
 31 (2) Not obsolete or temporarily unavailable; and

- 1       (3) Available for purchase, without limitation, by every pharmacy in this state, from a  
2       national or regional wholesale distributor licensed in this state.

3       **Section 16. That chapter 58-29E be amended with a NEW SECTION:**

4       A pharmacy benefit manager shall:

- 5       (1) Provide each pharmacy in a pharmacy network with reasonable access to each  
6       maximum allowable cost list to which the pharmacy is subject;  
7       (2) Update a maximum allowable cost list, within seven calendar days from the date  
8       of any increase, at or above ten percent, in the price charged for a prescription  
9       drug on the list by one or more wholesale distributors doing business in this state;  
10      (3) Update the maximum allowable cost list, within seven calendar days from the date  
11      of any change in the methodology, or any change in the value of a variable applied  
12      in the methodology, on which the maximum allowable cost list is based; and  
13      (4) Provide a process under which each pharmacy in a pharmacy network may receive  
14      prompt notice of any change in a maximum allowable cost list to which the  
15      pharmacy is subject.

16      **Section 17. That chapter 58-29E be amended with a NEW SECTION:**

17      A pharmacy benefit manager may not reimburse any pharmacy located in this state  
18      an amount that is less than that which the pharmacy benefit manager reimburses a  
19      pharmacy benefit manager affiliate for dispensing the same prescription drug as that  
20      dispensed by the pharmacy.

21      The reimbursement amount must be calculated on a per unit basis, using the same  
22      generic product identifier or generic code number.

23      **Section 18. That chapter 58-29E be amended with a NEW SECTION:**

24      A pharmacy benefit manager licensed under this chapter shall, at the request of the  
25      Division of Insurance, provide:

- 26      (1) The amount charged or claimed by the pharmacy benefit manager, in a format that  
27      allows the division to identify all instances of spread pricing; and  
28      (2) Information regarding a shared ownership interest by any person defined in § 58-  
29      29E-1.

30      **Section 19. That chapter 58-29E be amended with a NEW SECTION:**

1           In addition to any grounds set forth in § 58-29D-31, the director may deny a  
2           pharmacy benefit manager's application for an initial or a renewed license, and may  
3           suspend or revoke a pharmacy benefit manager's license, if the director determines that  
4           the pharmacy benefit manager, or an applicant for a license, failed to provide information  
5           as required by this chapter.

6           **Section 20. That § 58-29E-11 be REPEALED:**

7           ~~The provisions of this chapter apply only to pharmacy benefits management~~  
8           ~~services contracts entered into or renewed after June 30, 2004.~~