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SENATE BILL 2377

By Reeves

AN ACT to amend Tennessee Code Annotated, Title 8; Title 53; Title 56; Title 63; Title 68 and Title 71, relative to prescriptions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following as a new part:

56-7-3001. Short title.

This part may be known and cited as the "Modernizing Medication Utilization Act."

56-7-3002. Part definitions.

As used in this part:

(1) "Electronic health record" means a qualified electronic health record as defined in 42 U.S.C. § 300jj;

(2) "Health plan" means health insurance coverage as defined in § 56-7-109, and includes health insurance coverage offered by any state or local insurance program, under title 8, chapter 27, and any managed care organization contracting with the state to provide insurance through the TennCare program;

(3) "Healthcare provider" means healthcare professionals, establishments, or facilities licensed, registered, certified, or permitted pursuant to title 63 or title 68 and regulated under the authority of either the department of health or any agency, board, council, or committee attached to the department of health;

(4) "Pharmacist service" means products, goods, or services provided as a part of the practice of pharmacy as defined in § 63-10-204 to individuals who reside or are employed in this state;

(5) "Pharmacy" has the same meaning as defined in § 63-10-204; and

(6) "Pharmacy benefits manager" has the same meaning as defined in § 56-7-3102.

56-7-3003. Real-time patient benefit and cost transparency.

(a) Beginning January 1, 2021, health plans, pharmacy benefits managers, and pharmacies shall make available a patient's specific prescription cost and benefit information in real-time for usage in a healthcare provider's prescribing or electronic health record system at the point of prescribing and at the point of dispensing.

(b) Intermediaries, such as real-time networks, switches, and translation services, shall facilitate the process of providing real-time benefit requests and responses among health plans, healthcare providers, pharmacy benefits managers, and pharmacies.

56-7-3004. Electronic standards for real-time prescription benefit.

(a) By January 1, 2021, electronic health record systems must display the patient-specific eligibility; formulary; benefit; cost; coverage; clinical coverage criteria and restrictions; therapeutically equivalent alternatives, as appropriate; and prior authorization or other utilization management requirements.

(b) All benefit requests and responses must be sent and received in real-time in prescribing or electronic health record systems. The real-time exchange of the patient-specific eligibility; formulary; benefit; cost; and coverage information must adhere to healthcare industry standards developed by an organization accredited by the American National Standards Institute.

(c) Health plans, healthcare providers, pharmacy benefits managers, and pharmacies shall partner with intermediaries, such as real-time networks, switches, and

translation services, to deliver accurate, patient-specific prescription benefit and coverage, or cash pay, information to prescribing and electronic health record systems.

(d) A health plan or pharmacy benefits manager shall provide the patient-specific data described in subsection (a) to any qualifying real-time benefit intermediaries, such as real-time networks, switches, and translation services, that adhere to the standards described in subsection (b).

(e) This section does not limit access to patient-specific eligibility or prescription cost and benefit data to the health plan or its preferred real-time benefit intermediary.

56-7-3005. Presenting patient out-of-pocket cost at the point of prescribing.

(a) Based on patient-specific benefit and cost information provided in real-time through a prescribing or electronic health record system, healthcare providers shall provide information to the patient about the most therapeutically appropriate and lowest cost prescription medication available to the patient at the time of prescribing.

(b) Prescription cost information displayed in a prescribing or electronic health record system at the point of prescribing must include all options available to the patient, including cost options available at the patient's pharmacy of choice; any specialty pharmacy cost, as applicable; and any cash options.

(c) Health plans and pharmacy benefit managers shall not prohibit displaying cost, benefit, and coverage information at the point of prescribing or dispensing that reflects other choices, such as cash price, patient assistance, and support programs, and the cost available at the patient's pharmacy of choice.

56-7-3006. Provider communication and patient choice.

(a) When appropriate, healthcare providers shall communicate to the patient prescription cost information, including cash price, therapeutic alternatives, and

prescription delivery options displayed within the healthcare provider's electronic health record system.

(b) After a patient consults with the patient's healthcare provider about any appropriate therapy alternatives and any cost options available, the patient may choose whether to utilize the patient's prescription benefits.

(c) If the patient does not utilize the patient's prescription benefit for the prescription written by the healthcare provider, then the healthcare provider shall not convey the patient's decision not to utilize the prescription benefit to the health plan or pharmacy benefit manager.

(d) This section does not prohibit a healthcare provider from conveying the full range of prescription drug cost options to a patient or a patient from choosing the option of the patient's choice. Health plans and pharmacy benefits managers shall not restrict a healthcare provider from communicating to the patient prescription cost options based on their unique prescription drug formulary or benefit along with non-formulary alternatives, such as cash price, patient assistance programs, clinically appropriate alternatives, and prescription delivery options.

56-7-3007. Patient assistance programs.

A prescribing or electronic health record system must show information on financial and resource assistance available to the patient, when available, for the prescription written by the healthcare provider.

56-7-3008. Compliance with federal law.

The information provided in a prescribing or electronic health record system must be disclosed in a manner consistent with the requirements of federal law, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1320d et seq.).

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.