GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 451

Short Title:	Pharmacists' Patient Drug Care Act.	(Public)
Sponsors:	Senators Rand; Albertson, Ballance, Berger, Bingham, Carpenter, Foxx, Garwood, Harris, Hartsell, Jordan, Martin of Pitt, Metcalf, Plyler, Robinson, Shaw of Cumberland, and Soles.	
Referred to:	Commerce.	

March 14, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ACCESS TO AND FREEDOM OF CHOICE AMONG ALL
3 PHARMACIES FOR PATIENTS OFFERED OUTPATIENT PRESCRIPTION
4 DRUG BENEFITS BY HEALTH BENEFIT PLANS IN NORTH CAROLINA
5 AND TO PROVIDE A CONSISTENTLY FAIR AND EQUITABLE MEANS OF
6 REIMBURSEMENT FOR ALL PHARMACIES BY THESE PLANS.
7 The General Assembly of North Carolina enacts:
8 **SECTION 1.** Article 3 of Chapter 58 of the General Statutes is amended by
9 adding the following new section to read:
10 "**§ 58-3-179. Pharmacists' patient drug care coverage.**
11 (a) Every insurer, third-party administrator, or any other entity that provides a
12 health benefit plan shall provide access to and freedom of choice among all registered
13 pharmacies for any outpatient prescription drug benefits, including prescription drug
14 card benefits, offered to any insured beneficiary covered by the health benefit plan in
15 accordance with the provisions of this section. As used in this section, an insurer is
16 defined by G.S. 58-3-167(a)(2) and a health benefit plan is defined by G.S. 58-3-
17 167(a)(1). As used in this section, a health benefit plan also includes plans administered
18 by the State out of federal funds awarded to the State or out of funds appropriated by the
19 State to the extent allowed by federal law. This section does not apply to any outpatient
20 prescription drug program administered by the Department of Health and Human
21 Services.
22 (b) An insured beneficiary who has a prescription drug benefit may redeem the
23 benefit at any pharmacy willing to redeem the prescription drug benefit.
24 (c) A pharmacy may redeem an insured beneficiary's prescription drug benefit
25 whether or not the pharmacy has entered into a pharmacy provider contract with an
26 insurer, third-party administrator, or any other entity providing the benefit for the

insurer, third-party administrator, or other entity. In redeeming prescription benefits, a pharmacy may establish its own price or charge for the prescription. The insured beneficiary shall be responsible for paying the noncontracting pharmacy the difference, if any, between the amount paid by the plan and the charge established by the noncontracting pharmacy. If an insured beneficiary redeems a prescription drug benefit at a pharmacy that is not a party to a pharmacy provider contract, the insurer, third-party administrator, or any other entity providing a prescription drug benefit for the insurer shall redeem the prescription drug benefit and reimburse the pharmacy in the same manner, to the same extent, at the same rate, and on the same payment schedule as the insurer or other entity would to a pharmacy that is a party to a pharmacy provider contract.

(d) Nothing in this section shall prevent a pharmacy from entering into a pharmacy provider contract.

(e) Any insurer, third-party administrator, or other entity providing or administering a prescription drug benefit that violates this section shall be subject to G.S. 58-2-70. Any civil monetary penalties for violations determined by the Commissioner shall be pursuant to G.S. 58-2-70(d)."

SECTION 2. G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. For pharmacies that have provider agreements with the Plan, the ~~The~~ Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, fifteen dollars ($15.00) for each branded prescription, and twenty dollars ($20.00) for each branded prescription with a generic equivalent drug, and twenty-five dollars ($25.00) for each branded or generic prescription not on a formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: `Caution: Federal Law Prohibits Dispensing Without Prescription.' Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member."

SECTION 3. This act is effective when it becomes law and applies to every outpatient prescription drug benefit processed on and after July 1, 2001.