

**As Reported by the House Health Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 63**

**Representatives Lipps, West**

**Cosponsors: Representatives Smith, R., McClain, Koehler, Hambley, Crossman,  
Schaffer, Riedel, LaTourette, Scherer, Miranda, Upchurch, Smith, K., Galonski,  
Greenspan, Clites, Lepore-Hagan**

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**A BILL**

To amend sections 1739.05 and 3959.12 and to enact 1  
sections 1751.92, 3923.87, 3959.20, and 4729.47 2  
of the Revised Code regarding pharmacy benefit 3  
managers, pharmacists, and the disclosure to 4  
patients of drug price information. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1739.05 and 3959.12 be amended 6  
and sections 1751.92, 3923.87, 3959.20, and 4729.47 of the 7  
Revised Code be enacted to read as follows: 8

**Sec. 1739.05.** (A) A multiple employer welfare arrangement 9  
that is created pursuant to sections 1739.01 to 1739.22 of the 10  
Revised Code and that operates a group self-insurance program 11  
may be established only if any of the following applies: 12

(1) The arrangement has and maintains a minimum enrollment 13  
of three hundred employees of two or more employers. 14

(2) The arrangement has and maintains a minimum enrollment 15  
of three hundred self-employed individuals. 16

(3) The arrangement has and maintains a minimum enrollment 17  
of three hundred employees or self-employed individuals in any 18  
combination of divisions (A) (1) and (2) of this section. 19

(B) A multiple employer welfare arrangement that is 20  
created pursuant to sections 1739.01 to 1739.22 of the Revised 21  
Code and that operates a group self-insurance program shall 22  
comply with all laws applicable to self-funded programs in this 23  
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 24  
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 25  
3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 26  
3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 27  
3923.80, 3923.84, 3923.85, 3923.851, 3923.87, 3924.031, 28  
3924.032, and 3924.27 of the Revised Code. 29

(C) A multiple employer welfare arrangement created 30  
pursuant to sections 1739.01 to 1739.22 of the Revised Code 31  
shall solicit enrollments only through agents or solicitors 32  
licensed pursuant to Chapter 3905. of the Revised Code to sell 33  
or solicit sickness and accident insurance. 34

(D) A multiple employer welfare arrangement created 35  
pursuant to sections 1739.01 to 1739.22 of the Revised Code 36  
shall provide benefits only to individuals who are members, 37  
employees of members, or the dependents of members or employees, 38  
or are eligible for continuation of coverage under section 39  
1751.53 or 3923.38 of the Revised Code or under Title X of the 40  
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 41  
Stat. 227, 29 U.S.C.A. 1161, as amended. 42

(E) A multiple employer welfare arrangement created 43  
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 44  
subject to, and shall comply with, sections 3903.81 to 3903.93 45  
of the Revised Code in the same manner as other life or health 46

insurers, as defined in section 3903.81 of the Revised Code. 47

Sec. 1751.92. Each health insuring corporation shall 48  
comply with the requirements of section 3959.20 of the Revised 49  
Code as they pertain to health plan issuers. 50

As used in this section, "health plan issuer" has the same 51  
meaning as in section 3922.01 of the Revised Code. 52

Sec. 3923.87. Each sickness and accident insurer or public 53  
employee benefit plan shall comply with the requirements of 54  
section 3959.20 of the Revised Code as they pertain to health 55  
plan issuers. 56

As used in this section, "health plan issuer" has the same 57  
meaning as in section 3922.01 of the Revised Code. 58

**Sec. 3959.12.** (A) Any license issued under sections 59  
3959.01 to 3959.16 of the Revised Code may be suspended for a 60  
period not to exceed two years, revoked, or not renewed by the 61  
superintendent of insurance after notice to the licensee and 62  
hearing in accordance with Chapter 119. of the Revised Code. The 63  
superintendent may suspend, revoke, or refuse to renew a license 64  
if upon investigation and proof the superintendent finds that 65  
the licensee has done any of the following: 66

(1) Knowingly violated any provision of sections 3959.01 67  
to 3959.16 or 3959.20 of the Revised Code or any rule 68  
promulgated by the superintendent; 69

(2) Knowingly made a material misstatement in the 70  
application for the license; 71

(3) Obtained or attempted to obtain a license through 72  
misrepresentation or fraud; 73

(4) Misappropriated or converted to the licensee's own use 74

or improperly withheld insurance company premiums or 75  
contributions held in a fiduciary capacity, excluding, however, 76  
any interest earnings received by the administrator as disclosed 77  
in writing by the administrator to the plan sponsor; 78

(5) In the transaction of business under the license, used 79  
fraudulent, coercive, or dishonest practices; 80

(6) Failed to appear without reasonable cause or excuse in 81  
response to a subpoena, examination, warrant, or other order 82  
lawfully issued by the superintendent; 83

(7) Is affiliated with or under the same general 84  
management or interlocking directorate or ownership of another 85  
administrator that transacts business in this state and is not 86  
licensed under sections 3959.01 to 3959.16 of the Revised Code; 87

(8) Had a license suspended, revoked, or not renewed in 88  
any other state, district, territory, or province on grounds 89  
identical to those stated in sections 3959.01 to 3959.16 of the 90  
Revised Code; 91

(9) Been convicted of a financially related felony; 92

(10) Failed to report a felony conviction as required 93  
under section 3959.13 of the Revised Code. 94

(B) Upon receipt of notice of the order of suspension in 95  
accordance with section 119.07 of the Revised Code, the licensee 96  
shall promptly deliver the license to the superintendent, unless 97  
the order of suspension is appealed under section 119.12 of the 98  
Revised Code. 99

(C) Any person whose license is revoked or whose 100  
application is denied pursuant to sections 3959.01 to 3959.16 of 101  
the Revised Code is ineligible to apply for an administrators 102

license for two years. 103

(D) The superintendent may impose a monetary fine against 104  
a licensee if, upon investigation and after notice and 105  
opportunity for hearing in accordance with Chapter 119. of the 106  
Revised Code, the superintendent finds that the licensee has 107  
done either of the following: 108

(1) Committed fraud or engaged in any illegal or dishonest 109  
activity in connection with the administration of pharmacy 110  
benefit management services; 111

(2) Violated any provision of section 3959.111 of the 112  
Revised Code or any rule adopted by the superintendent pursuant 113  
to or to implement that section. 114

**Sec. 3959.20.** (A) As used in this section: 115

(1) "Cost-sharing" means the cost to an individual insured 116  
under a health benefit plan according to any coverage limit, 117  
copayment, coinsurance, deductible, or other out-of-pocket 118  
expense requirements imposed by the plan. 119

(2) "Health benefit plan" and "health plan issuer" have 120  
the same meanings as in section 3922.01 of the Revised Code. 121

(3) "Pharmacy audit" has the same meaning as in section 122  
3901.81 of the Revised Code. 123

(4) "Pharmacy benefit manager" and "administrator" have 124  
the same meanings as in section 3959.01 of the Revised Code. 125

(B) No health plan issuer, pharmacy benefit manager, or 126  
any other administrator shall require cost-sharing in an amount, 127  
or direct a pharmacy to collect cost-sharing in an amount, 128  
greater than the lesser of either of the following from an 129  
individual purchasing a prescription drug: 130

(1) The amount an individual would pay for the drug if the drug were to be purchased without coverage under a health benefit plan; 131  
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(2) The net reimbursement paid to the pharmacy for the prescription drug by the health plan issuer, pharmacy benefit manager, or administrator. 134  
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(C) (1) No health plan issuer, pharmacy benefit manager, or administrator shall retroactively adjust a pharmacy claim for reimbursement for a prescription drug unless the adjustment is the result of either of the following: 137  
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(a) A pharmacy audit conducted in accordance with sections 3901.811 to 3901.814 of the Revised Code; 141  
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(b) A technical billing error. 143

(2) No health plan issuer, pharmacy benefit manager, or administrator shall charge a fee related to a claim unless the amount of the fee can be determined at the time of claim adjudication. 144  
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(D) The department of insurance shall create a web form that consumers can use to submit complaints relating to violations of this section. 148  
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**Sec. 4729.47.** When filling a prescription, if a pharmacist, pharmacy intern, or terminal distributor of dangerous drugs has information indicating that the cost-sharing amount required by the patient's health benefit plan exceeds the amount that may otherwise be charged for the same drug, both of the following apply: 151  
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(A) The pharmacist, pharmacy intern, or terminal distributor shall provide this information to the patient. 157  
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<u>(B) The patient shall not be charged the higher amount.</u>	159
<b>Section 2.</b> That existing sections 1739.05 and 3959.12 of the Revised Code are hereby repealed.	160 161
<b>Section 3.</b> Section 3959.20 of the Revised Code as enacted by this act applies to contracts for pharmacy services and to health benefit plans, as defined in section 3922.01 of the Revised Code, entered into or amended on or after the effective date of this act.	162 163 164 165 166
<b>Section 4.</b> Section 1739.05 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 463 and Sub. S.B. 319 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.	167 168 169 170 171 172 173 174 175