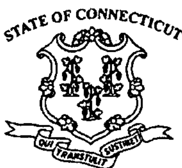

General Assembly

February Session, 2006

Raised Bill No. 580

LCO No. 2359

Referred to Committee on

PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING MANDATORY DISCLOSURES BY PHARMACY BENEFIT MANAGERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) As used in this
2 section:

3 (1) "Covered entity" means a nonprofit hospital, as defined in
4 section 19a-486 of the general statutes; a managed care organization, as
5 defined in section 38a-478 of the 2006 supplement to the general
6 statutes; a health program administered by the state in the capacity of
7 provider of health coverage; or an employer, labor organization or
8 other group of persons organized in this state that provides health
9 coverage to covered individuals who are employed or reside in this
10 state. "Covered entity" does not include a health plan that provides
11 accident only, specific disease, individual hospital indemnity,
12 Medicare supplement, long-term care, disability income insurance or
13 other limited benefit health insurance policy or contract.

14 (2) "Covered individual" means a member, participant, enrollee,
15 contract holder, policy holder or beneficiary of a covered entity who

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16 receives health coverage from a covered entity, including a dependent
17 or other person who receives health coverage through a covered
18 individual's policy, contract or plan.

19 (3) "Generic drug" means a chemically equivalent copy of a brand-
20 name drug with an expired patent.

21 (4) "Labeler" means an entity or person that (A) receives
22 prescription drugs from a manufacturer or wholesaler and repackages
23 those drugs for later retail sale, and (B) has a labeler code from the
24 federal Food and Drug Administration under 21 CFR 207.20, as from
25 time to time amended.

26 (5) "Pharmacy benefits management" means the procurement of
27 prescription drugs at a negotiated rate for dispensation within this
28 state to covered individuals, the administration or management of
29 prescription drug benefits provided by a covered entity for the benefit
30 of covered individuals, or any of the following services provided with
31 regard to the administration of pharmacy benefits:

32 (A) Mail service pharmacy;

33 (B) Claims processing, retail network management and payment of
34 claims to pharmacies for prescription drugs dispensed to covered
35 individuals;

36 (C) Clinical formulary development and management services;

37 (D) Rebate contracting and administration;

38 (E) Certain patient compliance, therapeutic intervention and generic
39 substitution programs; and

40 (F) Disease management programs.

41 (6) "Pharmacy benefits manager" means an entity that performs
42 pharmacy benefit management, including any person or entity that
43 acts on behalf of a pharmacy benefits manager in a contractual or

44 employment relationship in the performance of pharmacy benefits
45 management for a covered entity such as mail service pharmacy.

46 (b) A pharmacy benefits manager owes a fiduciary duty to a
47 covered entity and shall discharge that duty in accordance with the
48 provisions of state and federal law. A pharmacy benefits manager shall
49 also:

50 (1) Perform its duties with care, skill, prudence and diligence and in
51 accordance with the standards of conduct applicable to a fiduciary in
52 an enterprise of a like character and with like aims.

53 (2) Discharge its duties with respect to the covered entity for the
54 primary purpose of providing benefits to covered individuals and
55 defraying reasonable expenses of administering health plans.

56 (3) Notify the covered entity, in writing, of any activity, policy or
57 practice of the pharmacy benefits manager that directly or indirectly
58 presents any conflict of interest with the duties imposed by this
59 subsection.

60 (4) Provide to a covered entity all financial and utilization
61 information requested by the covered entity relating to the provision
62 of benefits to covered individuals through that covered entity and all
63 financial and utilization information relating to services to that covered
64 entity. A pharmacy benefits manager providing information under this
65 subdivision may designate such information as confidential. A covered
66 entity may not disclose information designated as confidential by a
67 pharmacy benefits manager without the written consent of the
68 pharmacy benefits manager, unless disclosure is (A) made in a court
69 filing under the Connecticut Unfair Trade Practices Act, or (B) when
70 authorized by said act or ordered by a court of this state for good cause
71 shown.

72 (c) The pharmacy benefits manager shall comply with the
73 provisions of this subsection when dispensing a substitute prescription

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74 drug for a prescribed drug to a covered individual: (1) The pharmacy
75 benefits manager may substitute a lower-priced generic drug for a
76 higher-priced prescribed drug, provided the generic drug is
77 therapeutically equivalent to the prescribed drug; (2) if the substituted
78 drug costs more than the prescribed drug, the pharmacy benefits
79 manager may not make such a substitution unless (A) the substitution
80 is for medical reasons that benefit the covered individual and the
81 covered entity, and (B) the pharmacy benefits manager has obtained
82 the approval of the prescribing health professional or that person's
83 authorized representative after disclosing to the covered individual
84 and the covered entity the cost of both drugs and any benefit or
85 payment directly or indirectly accruing to the pharmacy benefits
86 manager as a result of the substitution; and (3) the pharmacy benefits
87 manager shall transfer in full to the covered entity any benefit or
88 payment received in any form by the pharmacy benefits manager as a
89 result of a prescription drug substitution under subdivision (1) or (2) of
90 this subsection.

91 (d) A pharmacy benefits manager that derives any payment or
92 benefit for the dispensation of prescription drugs within the state
93 based on volume of sales for certain prescription drugs or classes or
94 brands of drugs within the state shall pass such payment or benefit on
95 in full to the covered entity.

96 (e) A pharmacy benefits manager shall disclose to the covered entity
97 all financial terms and arrangements for remuneration of any kind that
98 apply between the pharmacy benefits manager and any prescription
99 drug manufacturer or labeler, including, but not limited to, formulary
100 management and drug switch programs, educational support, claims
101 processing and pharmacy network fees that are charged from retail
102 pharmacies and data sales fees.

103 (f) Any violation of this section shall constitute an unfair and
104 deceptive trade practice under chapter 735a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2006*	New section

Statement of Purpose:
To establish standards and disclosure requirements for pharmacy benefits managers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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