

# SENATE, No. 2690

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 11, 2018

**Sponsored by:**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

**Senators Diegnan and Turner**

**SYNOPSIS**

Prohibits pharmacy benefits managers from collecting “clawback” copayments; requires certain language prohibiting “gag clauses” in contracts with pharmacists; provides certain penalties.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/28/2018)**

1 AN ACT concerning pharmacy benefits managers and  
2 supplementing P.L.2015, c.179 (C.17B:27F-1 et seq.).  
3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*  
6

7 1. a. A pharmacy benefits manager, in connection with any  
8 contract or arrangement with a private health insurer, prescription  
9 benefit plan, or the State Health Benefits Program or School  
10 Employees' Health Benefits Program, shall not charge a covered  
11 person a copayment for a prescription drug benefit in an amount  
12 that exceeds the cost of the prescription drug that the pharmacy  
13 would charge to persons who do not purchase the prescription drug  
14 through their health insurance coverage.

15 b. A pharmacy benefits manager shall include in any contract  
16 between the pharmacy benefits manager and a pharmacy, language  
17 that permits the pharmacy to disclose to a covered person lower cost  
18 prescription drug options, including those that are available to the  
19 covered person if the covered person purchases the prescription  
20 drug without using health insurance coverage.

21 c. Any provision of a contract that conflicts with the provisions  
22 of subsection b. of this section shall be void and unenforceable.

23 d. A violation of this section shall be an unlawful practice and  
24 a violation of the New Jersey consumer fraud act, P.L.1960, c.39  
25 (C.56:8-1 et seq.).  
26

27 2. This act shall take effect on the 90th day next following  
28 enactment.  
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### 31 STATEMENT

32  
33 This bill addresses "clawback schemes" by prohibiting a  
34 pharmacy benefits manager, in connection with any contract or  
35 arrangement with a private health insurer, prescription benefit plan,  
36 or the State Health Benefits Program or School Employees' Health  
37 Benefits Program, from charging a covered person a copayment for  
38 a prescription drug benefit in an amount that exceeds the cost of the  
39 prescription drug that the pharmacy would charge to persons who  
40 do not purchase the drug through their health insurance coverage.

41 The bill also addresses "gag clauses" by requiring a pharmacy  
42 benefits manager to include in any contract between the pharmacy  
43 benefits manager and a pharmacy, language that permits the  
44 pharmacy to disclose to a covered person lower cost prescription  
45 drug options, including those that are available to the covered  
46 person if the covered person purchases the prescription drug  
47 without using health insurance coverage.

**S2690 CRYAN, BEACH**

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1       The bill makes a provision of a contract that conflicts with the  
2 bill's prohibitions on "gag clauses" void and unenforceable. The  
3 bill also provides that a violation of any provision of the bill is a  
4 violation of New Jersey's consumer fraud act.