

[First Reprint]
SENATE, No. 1039

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Authorizes pharmacists to dispense HIV prophylaxis without individual prescription under certain circumstances; mandates prescription benefits coverage.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on March 9, 2021, with amendments.



1 AN ACT concerning pharmacists and supplementing P.L.2003,
2 c.280 (C.45:14-40 et seq.), P.L.1997, c.192 (C.26:2S-1 et seq.),
3 and P.L.1968, c.413 (C.30:4D-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in this act:

9 “CDC PEP guidelines” means the “Updated Guidelines for
10 Antiretroviral Postexposure Prophylaxis After Sexual, Injection
11 Drug Use, or Other Nonoccupational Exposure to HIV – United
12 States, 2016,” or any subsequent guidelines, published by the
13 federal Centers for Disease Control and Prevention.

14 “CDC PReP guidelines” means the “2017 Preexposure
15 Prophylaxis for the Prevention of HIV Infection in the United States
16 – 2017 Update: A Clinical Practice Guideline,” or any subsequent
17 guidelines, published by the federal Centers for Disease Control and
18 Prevention.

19 “HIV” means the human immunodeficiency virus.

20 “HIV preexposure prophylaxis” means a fixed-dose combination
21 of tenofovir disoproxil fumarate (TDF) (300 mg) with emtricitabine
22 (FTC) (200 mg), or another drug or drug combination determined
23 by the State Board of Pharmacy to meet the same clinical eligibility
24 recommendations provided in the CEC PReP guidelines.

25 “HIV postexposure prophylaxis” means: tenofovir disoproxil
26 fumarate (TDF) (300 mg) with emtricitabine (FTC) (200 mg), taken
27 once daily, in combination with either raltegravir (400mg), taken
28 twice daily, or dolutegravir (50mg), taken once daily; tenofovir
29 disoproxil fumarate (TDF) (300 mg) with emtricitabine (FTC) (200
30 mg), taken once daily, in combination with darunavir (800mg) and
31 ritonavir (100mg), taken once daily; or another drug or drug
32 combination determined by the State Board of Pharmacy to meet
33 the same clinical eligibility recommendations provided in the CEC
34 PRP guidelines.
35

36 2. a. Notwithstanding any other provision of law to the
37 contrary, a pharmacist may initiate and furnish HIV preexposure
38 prophylaxis or HIV postexposure prophylaxis to a patient without
39 an individual prescription pursuant to a standing order issued to the
40 pharmacist by the Commissioner of Health or, if the commissioner
41 is not a duly licensed physician, the Deputy Commissioner for
42 Public Health Services. A standing order shall be issued to a
43 pharmacist upon request, provided that the pharmacist satisfies the
44 training requirements set forth in subsection b. of this section and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted March 9, 2021.

1 certifies that the pharmacist will adhere to the requirements set
2 forth in subsection c. of this section concerning the protocols for
3 initiating and furnishing HIV preexposure prophylaxis and the
4 requirements set forth in subsection d. of this section concerning the
5 protocols for initiating and furnishing HIV postexposure
6 prophylaxis to patients without an individual prescription. In no
7 case shall a patient be authorized to waive the consultation required
8 pursuant to subsection c. or subsection d. of this section.

9 b. A pharmacist shall not be authorized to furnish HIV
10 preexposure prophylaxis or HIV postexposure prophylaxis to a
11 patient without an individual prescription unless the pharmacist
12 completes a training program, approved by the State Board of
13 Pharmacy in consultation with the Department of Health,
14 concerning the use of HIV preexposure prophylaxis and HIV
15 postexposure prophylaxis. At a minimum, the training program
16 shall include information about financial assistance programs
17 available to patients to assist with the costs of HIV preexposure
18 prophylaxis and HIV postexposure prophylaxis.

19 c. A pharmacist shall furnish at least a 30-day supply, and up
20 to a 60-day supply, of HIV preexposure prophylaxis to a patient
21 without an individual prescription if the following requirements are
22 met:

23 (1) The patient is HIV-negative, as documented by a negative
24 HIV test result obtained within the previous seven days from an
25 HIV antigen/antibody test or antibody-only test or from a rapid,
26 point-of-care fingerstick blood test approved by the federal Food
27 and Drug Administration. If the patient does not provide evidence
28 of a negative HIV test in accordance with this paragraph, the
29 pharmacist shall order an HIV test. If the test results are not
30 ordered directly to a pharmacist, the pharmacist shall verify the test
31 results to the pharmacist's satisfaction. If the patient tests positive
32 for HIV infection, the pharmacist or person administering the test
33 shall direct the patient to a primary care provider, provide the
34 patient with information and resources concerning treatment
35 providers and HIV treatment clinics in the region, and ¹**['shall']**¹
36 take all other actions required under State and federal law in
37 response to a positive test for HIV;

38 (2) The patient does not report any signs or symptoms of acute
39 HIV infection on a self-reported checklist of acute HIV infection
40 signs and symptoms;

41 (3) The patient does not report taking any contraindicated
42 medications, and the pharmacist reviews the patient's prescription
43 monitoring information to confirm no contraindicated prescriptions
44 have been issued or dispensed to the patient in the past six months;

45 (4) The patient has not been furnished with HIV preexposure
46 prophylaxis without an individual prescription within the past two
47 years;

1 (5) The pharmacist provides counseling to the patient on the
2 ongoing use of HIV preexposure prophylaxis, which may include
3 education about side effects, safety during pregnancy and
4 breastfeeding, adherence to recommended dosing, and the
5 importance of timely testing and treatment, as applicable, for HIV,
6 renal function, hepatitis B, hepatitis C, sexually transmitted
7 diseases, and pregnancy for individuals of child-bearing capacity.
8 The pharmacist shall notify the patient that the patient will not be
9 eligible to continue receiving HIV preexposure prophylaxis unless
10 the patient is seen by a primary care provider and issued a
11 prescription for the HIV preexposure prophylaxis, and that the
12 patient may be furnished with no more than a 60-day supply of HIV
13 preexposure prophylaxis by a pharmacist without an individual
14 prescription within any given two year period;

15 (6) The pharmacist documents, to the extent possible, the
16 services provided by the pharmacist in the patient's record in the
17 record system maintained by the pharmacy, and includes the
18 dispensation of the HIV preexposure prophylaxis in the prescription
19 monitoring database established pursuant to P.L.2007, c.244
20 (C.45:1-45 et al.) with a note indicating the HIV preexposure
21 prophylaxis was provided without an individual prescription
22 pursuant to this section; and

23 (7) The pharmacist notifies the patient's primary care provider
24 that the pharmacist furnished the patient with HIV preexposure
25 prophylaxis pursuant to this section. If the patient does not have a
26 primary care provider, or refuses to consent to the pharmacist
27 providing notice to the primary care provider pursuant to this
28 paragraph, the pharmacist shall provide the patient with a list of
29 physicians and surgeons, clinics, or other health care service
30 providers to contact regarding ongoing care for HIV preexposure
31 prophylaxis. The Department of Health shall publish and maintain
32 a current list of providers for pharmacists to use for the purposes of
33 this paragraph, which list may be made available on the
34 department's Internet website.

35 d. A pharmacist shall furnish a complete course of HIV
36 postexposure prophylaxis to a patient without an individual
37 prescription if the following requirements are met:

38 (1) The pharmacist ¹【screens the patient and determines the
39 exposure to HIV occurred】 confirms with the patient that the
40 exposure to HIV occurred¹ within the previous 72 hours and the
41 patient otherwise meets the clinical criteria for HIV postexposure
42 prophylaxis consistent with the CDC PEP guidelines;

43 (2) The pharmacist provides HIV testing that is classified as
44 waived under the federal ¹“1 Clinical Laboratory Improvement
45 Amendments of 1988, ¹”1 42 U.S.C. s.263a, or determines the
46 patient is willing to undergo HIV testing consistent with the CDC
47 PEP guidelines;

1 (3) The pharmacist provides counseling to the patient on the use
2 of HIV postexposure prophylaxis consistent with the CDC PEP
3 guidelines, which may include education about side effects, safety
4 during pregnancy and breastfeeding, adherence to recommended
5 dosing, and the importance of timely testing and treatment, as
6 applicable, for HIV and sexually transmitted diseases. The
7 pharmacist shall additionally inform the patient of the availability
8 of HIV preexposure prophylaxis for persons who are at substantial
9 risk of acquiring HIV; and

10 (4) The pharmacist notifies the patient's primary care provider
11 that the pharmacist provided the patient with a complete course of
12 HIV postexposure prophylaxis. If the patient does not have a
13 primary care provider, or refuses to consent to the pharmacist
14 providing notice to the primary care provider pursuant to this
15 paragraph, the pharmacist shall provide the patient with a list of
16 physicians and surgeons, clinics, or other health care service
17 providers to contact regarding followup care for HIV postexposure
18 prophylaxis. The Department of Health shall publish and maintain
19 a current list of providers for pharmacists to use for the purposes of
20 this paragraph, which list may be made available on the
21 department's Internet website.

22
23 ¹[3. a. Within 90 days after the date of enactment of this act,
24 and notwithstanding the provisions of the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
26 contrary, the State Board of Pharmacy, in consultation with the
27 Department of Health, immediately upon filing proper notice with
28 the Office of Administrative Law, shall adopt rules and regulations
29 as may be necessary to implement the provisions of this act.

30 b. The rules and regulations adopted pursuant to subsection a.
31 of this section shall be in effect for a period not to exceed one year
32 from the date of filing. These rules and regulations shall thereafter
33 be adopted, amended, or readopted by the board, in consultation
34 with the Department of Health, in accordance with the requirements
35 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
36 1 et seq.).]¹

37
38 ¹[4. a. (1) Except as provided in paragraph (2) of this
39 subsection, a health benefits plan that provides prescription benefits
40 shall cover HIV preexposure prophylaxis and HIV postexposure
41 prophylaxis furnished without an individual prescription pursuant to
42 the requirements of section 2 of P.L. , c. (C.) (pending
43 before the Legislature as this bill) without requiring prior
44 authorization or step therapy.

45 (2) If the federal Food and Drug Administration has approved
46 one or more therapeutic equivalents of a drug, device, or product
47 for the prevention of HIV and AIDS, paragraph (1) of this
48 subsection shall not be construed to require a health benefits plan to

1 cover all therapeutically equivalent versions without prior
2 authorization or step therapy, if at least one version is covered
3 without prior authorization or step therapy.

4 b A health benefits plan shall not prohibit, or permit a
5 delegated pharmacy benefits manager to prohibit, a pharmacist from
6 dispensing HIV preexposure prophylaxis or HIV postexposure
7 prophylaxis.

8 c. A health benefits plan shall not be required to cover HIV
9 preexposure prophylaxis that has been furnished by a pharmacist
10 without an individual prescription pursuant to pursuant to section 2
11 of P.L. , c. (C.) (pending before the Legislature as this bill)
12 in excess of a 60-day supply for a single patient within a given two
13 year period.

14 d. Nothing in this section shall be construed to require a health
15 benefits plan to provide coverage for HIV preexposure prophylaxis
16 or HIV postexposure prophylaxis furnished by a pharmacist at an
17 out-of-network pharmacy, unless the health benefits plan has an
18 out-of-network pharmacy benefit.

19 e. As used in this section:

20 “HIV preexposure prophylaxis” means the same as that term is
21 defined in section 1 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 “HIV postexposure prophylaxis” means the same as that term is
24 defined in section 1 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26 “Step therapy” means requiring that a lower-cost alternative to
27 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
28 shown to have been ineffective as a condition of providing
29 prescription benefits coverage for the prophylaxis.】¹

30

31 ¹【5. a. (1) Notwithstanding any State law or regulation to the
32 contrary, and except as provided in paragraph (2) of this subsection,
33 the Department of Human Services shall ensure that the provision
34 of benefits for HIV preexposure prophylaxis and HIV postexposure
35 prophylaxis furnished without an individual prescription pursuant to
36 the requirements of section 2 of P.L. , c. (C.) (pending
37 before the Legislature as this bill) to eligible persons under the
38 Medicaid program, established pursuant to P.L.1968, c.413
39 (C.30:4D-1 et seq.), shall be provided without the imposition of any
40 prior authorization or step therapy requirements.

41 (2) If the federal Food and Drug Administration has approved
42 one or more therapeutic equivalents of a drug, device, or product
43 for the prevention of HIV and AIDS, paragraph (1) of this
44 subsection shall not be construed to require the department to
45 ensure coverage of all therapeutically equivalent versions without
46 prior authorization or step therapy, if at least one version is covered
47 without prior authorization or step therapy.

48 b. As used in this section:

1 “HIV preexposure prophylaxis” means the same as that term is
2 defined in section 1 of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4 “HIV postexposure prophylaxis” means the same as that term is
5 defined in section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 “Step therapy” means requiring that a lower-cost alternative to
8 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
9 shown to have been ineffective as a condition of providing
10 prescription benefits coverage for the prophylaxis.】¹

11

12 ¹【6. The Commissioner of Human Services shall apply for such
13 State plan amendments or waivers as may be necessary to
14 implement the provisions of section 5 of this act and to secure
15 federal financial participation for State Medicaid expenditures
16 under the federal Medicaid program.】¹

17

18 ¹【7. a. (1) Except as provided in paragraph (2) of this
19 subsection, the State Health Benefits Commission shall ensure that
20 every contract purchased by the commission on or after the
21 effective date of this act that provides hospital or medical expense
22 benefits that include prescription benefits shall cover HIV
23 preexposure prophylaxis and HIV postexposure prophylaxis
24 furnished without an individual prescription pursuant to the
25 requirements of section 2 of P.L. , c. (C.) (pending before
26 the Legislature as this bill) without requiring prior authorization or
27 step therapy.

28 (2) If the federal Food and Drug Administration has approved
29 one or more therapeutic equivalents of a drug, device, or product
30 for the prevention of HIV and AIDS, paragraph (1) of this
31 subsection shall not be construed to require the contract purchased
32 by the commission to cover all therapeutically equivalent versions
33 without prior authorization or step therapy, if at least one version is
34 covered without prior authorization or step therapy.

35 b The contract purchased by the commission shall not prohibit,
36 or permit a delegated pharmacy benefits manager prohibit, a
37 pharmacist from dispensing HIV preexposure prophylaxis or HIV
38 postexposure prophylaxis.

39 c. The contract purchased by the commission shall not be
40 required to cover HIV preexposure prophylaxis that has been
41 furnished by a pharmacist without an individual prescription
42 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
43 before the Legislature as this bill) in excess of a 60-day supply for a
44 single patient within a given two year period.

45 d. Nothing in this section shall be construed to require a
46 contract purchased by the commission to provide coverage for HIV
47 preexposure prophylaxis or HIV postexposure prophylaxis

1 furnished by a pharmacist at an out-of-network pharmacy, unless
2 the contract has an out-of-network pharmacy benefit.

3 e. As used in this section:

4 “HIV preexposure prophylaxis” means the same as that term is
5 defined in section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 “HIV postexposure prophylaxis” means the same as that term is
8 defined in section 1 of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10 “Step therapy” means requiring that a lower-cost alternative to
11 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
12 shown to have been ineffective as a condition of providing
13 prescription benefits coverage for the prophylaxis. **1**¹

14

15 ¹[8. a. (1) Except as provided in paragraph (2) of this
16 subsection, the School Employees’ Health Benefits Commission
17 shall ensure that every contract purchased by the commission on or
18 after the effective date of this act that provides hospital or medical
19 expense benefits that include prescription benefits shall cover HIV
20 preexposure prophylaxis and HIV postexposure prophylaxis
21 furnished without an individual prescription pursuant to the
22 requirements of section 2 of P.L. , c. (C.) (pending before
23 the Legislature as this bill) without requiring prior authorization or
24 step therapy.

25 (2) If the federal Food and Drug Administration has approved
26 one or more therapeutic equivalents of a drug, device, or product
27 for the prevention of HIV and AIDS, paragraph (1) of this
28 subsection shall not be construed to require the contract purchased
29 by the commission to cover all therapeutically equivalent versions
30 without prior authorization or step therapy, if at least one version is
31 covered without prior authorization or step therapy.

32 b The contract purchased by the commission shall not prohibit,
33 or permit a delegated pharmacy benefits manager prohibit, a
34 pharmacist from dispensing HIV preexposure prophylaxis or HIV
35 postexposure prophylaxis.

36 c. The contract purchased by the commission shall not be
37 required to cover HIV preexposure prophylaxis that has been
38 furnished by a pharmacist without an individual prescription
39 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) in excess of a 60-day supply for a
41 single patient within a given two year period.

42 d. Nothing in this section shall be construed to require a
43 contract purchased by the commission to provide coverage for HIV
44 preexposure prophylaxis or HIV postexposure prophylaxis
45 furnished by a pharmacist at an out-of-network pharmacy, unless
46 the contract has an out-of-network pharmacy benefit.

47 e. As used in this section:

1 “HIV preexposure prophylaxis” means the same as that term is
2 defined in section 1 of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4 “HIV postexposure prophylaxis” means the same as that term is
5 defined in section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 “Step therapy” means requiring that a lower-cost alternative to
8 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
9 shown to have been ineffective as a condition of providing
10 prescription benefits coverage for the prophylaxis.】¹

11
12 ¹3. a. (1) Except as provided in paragraph (2) of this
13 subsection, no group or individual hospital service corporation
14 contract providing hospital or medical expense benefits shall be
15 delivered, issued, executed, or renewed in this State or approved for
16 issuance or renewal in this State by the Commissioner of Banking
17 and Insurance, on or after the effective date of this act, unless the
18 contract provides benefits to any subscriber or other person covered
19 thereunder for HIV preexposure prophylaxis and HIV postexposure
20 prophylaxis furnished without an individual prescription pursuant to
21 the requirements of section 2 of P.L. , c. (C.) (pending
22 before the Legislature as this bill) without requiring prior
23 authorization or step therapy.

24 (2) If the federal Food and Drug Administration has approved
25 one or more therapeutic equivalents of a drug, device, or product
26 for the prevention of HIV and AIDS, paragraph (1) of this
27 subsection shall not be construed to require the contract to cover all
28 therapeutically equivalent versions without prior authorization or
29 step therapy, if at least one version is covered without prior
30 authorization or step therapy.

31 b. A contract offered by a group or individual hospital service
32 corporation shall not:

33 (1) prohibit, or permit a delegated pharmacy benefits manager to
34 prohibit, a pharmacist from dispensing HIV preexposure
35 prophylaxis or HIV postexposure prophylaxis; and

36 (2) be required to cover HIV preexposure prophylaxis that has
37 been furnished by a pharmacist without an individual prescription
38 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
39 before the Legislature as this bill) in excess of a 60-day supply for a
40 single patient within a given two year period.

41 c. Nothing in this section shall be construed to require a
42 contract offered by a group or individual hospital service
43 corporation to provide coverage for HIV preexposure prophylaxis
44 or HIV postexposure prophylaxis furnished by a pharmacist at an
45 out-of-network pharmacy, unless the contract has an out-of-network
46 pharmacy benefit.

1 d. The provisions of this section shall apply to all contracts in
2 which the hospital service corporation has reserved the right to
3 change the premium.

4 e. As used in this section:

5 “HIV preexposure prophylaxis” means the same as that term is
6 defined in section 1 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 “HIV postexposure prophylaxis” means the same as that term is
9 defined in section 1 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 “Step therapy” means requiring that a lower-cost alternative to
12 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
13 shown to have been ineffective as a condition of providing
14 prescription benefits coverage for the prophylaxis.¹

15
16 ¹4. a. (1) Except as provided in paragraph (2) of this
17 subsection, no group or individual medical service corporation
18 contract providing hospital or medical expense benefits shall be
19 delivered, issued, executed, or renewed in this State or approved for
20 issuance or renewal in this State by the Commissioner of Banking
21 and Insurance, on or after the effective date of this act, unless the
22 contract provides benefits to any subscriber or other person covered
23 thereunder for HIV preexposure prophylaxis and HIV postexposure
24 prophylaxis furnished without an individual prescription pursuant to
25 the requirements of section 2 of P.L. , c. (C.) (pending
26 before the Legislature as this bill) without requiring prior
27 authorization or step therapy.

28 (2) If the federal Food and Drug Administration has approved
29 one or more therapeutic equivalents of a drug, device, or product
30 for the prevention of HIV and AIDS, paragraph (1) of this
31 subsection shall not be construed to require the contract to cover all
32 therapeutically equivalent versions without prior authorization or
33 step therapy, if at least one version is covered without prior
34 authorization or step therapy.

35 b. A contract offered by a group or individual medical service
36 corporation shall not:

37 (1) prohibit, or permit a delegated pharmacy benefits manager to
38 prohibit, a pharmacist from dispensing HIV preexposure
39 prophylaxis or HIV postexposure prophylaxis; and

40 (2) be required to cover HIV preexposure prophylaxis that has
41 been furnished by a pharmacist without an individual prescription
42 pursuant to section 2 of P.L. , c. (C.) (pending
43 before the Legislature as this bill) in excess of a 60-day supply for a
44 single patient within a given two year period.

45 c. Nothing in this section shall be construed to require a contract
46 offered by a group or individual medical service corporation to
47 provide coverage for HIV preexposure prophylaxis or HIV
48 postexposure prophylaxis furnished by a pharmacist at an out-of-

1 network pharmacy, unless the contract has an out-of-network
2 pharmacy benefit.

3 d. The provisions of this section shall apply to all contracts in
4 which the group or individual medical service corporation has
5 reserved the right to change the premium.

6 e. As used in this section:

7 “HIV preexposure prophylaxis” means the same as that term is
8 defined in section 1 of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10 “HIV postexposure prophylaxis” means the same as that term is
11 defined in section 1 of P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 “Step therapy” means requiring that a lower-cost alternative to
14 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
15 shown to have been ineffective as a condition of providing
16 prescription benefits coverage for the prophylaxis.¹

17

18 ¹5. a. (1) Except as provided in paragraph (2) of this
19 subsection, no group or individual health service corporation
20 contract providing hospital or medical expense benefits shall be
21 delivered, issued, executed, or renewed in this State or approved for
22 issuance or renewal in this State by the Commissioner of Banking
23 and Insurance, on or after the effective date of this act, unless the
24 contract provides benefits to any subscriber or other person covered
25 thereunder for HIV preexposure prophylaxis and HIV postexposure
26 prophylaxis furnished without an individual prescription pursuant to
27 the requirements of section 2 of P.L. , c. (C.) (pending
28 before the Legislature as this bill) without requiring prior
29 authorization or step therapy.

30 (2) If the federal Food and Drug Administration has approved
31 one or more therapeutic equivalents of a drug, device, or product
32 for the prevention of HIV and AIDS, paragraph (1) of this
33 subsection shall not be construed to require the contract to cover all
34 therapeutically equivalent versions without prior authorization or
35 step therapy, if at least one version is covered without prior
36 authorization or step therapy.

37 b. A contract offered by a group or individual health service
38 corporation shall not:

39 (1) prohibit, or permit a delegated pharmacy benefits manager to
40 prohibit, a pharmacist from dispensing HIV preexposure
41 prophylaxis or HIV postexposure prophylaxis; and

42 (2) be required to cover HIV preexposure prophylaxis that has
43 been furnished by a pharmacist without an individual prescription
44 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) in excess of a 60-day supply for a
46 single patient within a given two year period.

47 c. Nothing in this section shall be construed to require a contract
48 offered by a health service corporation to provide coverage for HIV

1 preexposure prophylaxis or HIV postexposure prophylaxis
2 furnished by a pharmacist at an out-of-network pharmacy, unless
3 the contract has an out-of-network pharmacy benefit.

4 d. The provisions of this section shall apply to all contracts in
5 which the health service corporation has reserved the right to
6 change the premium.

7 e. As used in this section:

8 “HIV preexposure prophylaxis” means the same as that term is
9 defined in section 1 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 “HIV postexposure prophylaxis” means the same as that term is
12 defined in section 1 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 “Step therapy” means requiring that a lower-cost alternative to
15 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
16 shown to have been ineffective as a condition of providing
17 prescription benefits coverage for the prophylaxis.¹

18

19 ¹6. a. (1) Except as provided in paragraph (2) of this
20 subsection, no individual health insurance policy providing hospital
21 or medical expense benefits shall be delivered, issued, executed, or
22 renewed in this State or approved for issuance or renewal in this
23 State by the Commissioner of Banking and Insurance, on or after
24 the effective date of this act, unless the policy provides benefits to
25 any named insured or other person covered thereunder for HIV
26 preexposure prophylaxis and HIV postexposure prophylaxis
27 furnished without an individual prescription pursuant to the
28 requirements of section 2 of P.L. , c. (C.) (pending before
29 the Legislature as this bill) without requiring prior authorization or
30 step therapy.

31 (2) If the federal Food and Drug Administration has approved
32 one or more therapeutic equivalents of a drug, device, or product
33 for the prevention of HIV and AIDS, paragraph (1) of this
34 subsection shall not be construed to require the policy to cover all
35 therapeutically equivalent versions without prior authorization or
36 step therapy, if at least one version is covered without prior
37 authorization or step therapy.

38 b. An individual health insurance policy shall not:

39 (1) prohibit, or permit a delegated pharmacy benefits manager to
40 prohibit, a pharmacist from dispensing HIV preexposure
41 prophylaxis or HIV postexposure prophylaxis; and

42 (2) be required to cover HIV preexposure prophylaxis that has
43 been furnished by a pharmacist without an individual prescription
44 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) in excess of a 60-day supply for a
46 single patient within a given two year period.

47 c. Nothing in this section shall be construed to require an
48 individual health insurance policy to provide coverage for HIV

1 preexposure prophylaxis or HIV postexposure prophylaxis
2 furnished by a pharmacist at an out-of-network pharmacy, unless
3 the contract has an out-of-network pharmacy benefit.

4 d. The provisions of this section shall apply to all policies in
5 which the insurer has reserved the right to change the premium.

6 e. As used in this section:

7 “HIV preexposure prophylaxis” means the same as that term is
8 defined in section 1 of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10 “HIV postexposure prophylaxis” means the same as that term is
11 defined in section 1 of P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 “Step therapy” means requiring that a lower-cost alternative to
14 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
15 shown to have been ineffective as a condition of providing
16 prescription benefits coverage for the prophylaxis.¹

17

18 ¹7. a. (1) Except as provided in paragraph (2) of this
19 subsection, no group health insurance policy providing hospital or
20 medical expense benefits shall be delivered, issued, executed, or
21 renewed in this State or approved for issuance or renewal in this
22 State by the Commissioner of Banking and Insurance, on or after
23 the effective date of this act, unless the policy provides benefits to
24 any named insured or other person covered thereunder for HIV
25 preexposure prophylaxis and HIV postexposure prophylaxis
26 furnished without an individual prescription pursuant to the
27 requirements of section 2 of P.L. , c. (C.) (pending before
28 the Legislature as this bill) without requiring prior authorization or
29 step therapy.

30 (2) If the federal Food and Drug Administration has approved
31 one or more therapeutic equivalents of a drug, device, or product
32 for the prevention of HIV and AIDS, paragraph (1) of this
33 subsection shall not be construed to require the policy to cover all
34 therapeutically equivalent versions without prior authorization or
35 step therapy, if at least one version is covered without prior
36 authorization or step therapy.

37 b. A group health insurance policy shall not:

38 (1) prohibit, or permit a delegated pharmacy benefits manager to
39 prohibit, a pharmacist from dispensing HIV preexposure
40 prophylaxis or HIV postexposure prophylaxis; and

41 (2) be required to cover HIV preexposure prophylaxis that has
42 been furnished by a pharmacist without an individual prescription
43 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
44 before the Legislature as this bill) in excess of a 60-day supply for a
45 single patient within a given two year period.

46 c. Nothing in this section shall be construed to require a group
47 health insurance policy to provide coverage for HIV preexposure
48 prophylaxis or HIV postexposure prophylaxis furnished by a

1 pharmacist at an out-of-network pharmacy, unless the contract has
2 an out-of-network pharmacy benefit.

3 d. The provisions of this section shall apply to all policies in
4 which the insurer has reserved the right to change the premium.

5 e. As used in this section:

6 “HIV preexposure prophylaxis” means the same as that term is
7 defined in section 1 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 “HIV postexposure prophylaxis” means the same as that term is
10 defined in section 1 of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12 “Step therapy” means requiring that a lower-cost alternative to
13 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
14 shown to have been ineffective as a condition of providing
15 prescription benefits.¹

16
17 ¹8. a. (1) Except as provided in paragraph (2) of this
18 subsection, every individual health benefits plan that is delivered,
19 issued, executed, or renewed in this State pursuant to P.L.1992,
20 c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in
21 this State, on or after the effective date of this act, shall provide
22 benefits to any person covered thereunder for expenses incurred for
23 HIV preexposure prophylaxis and HIV postexposure prophylaxis
24 furnished without an individual prescription pursuant to the
25 requirements of section 2 of P.L. , c. (C.) (pending before
26 the Legislature as this bill) without requiring prior authorization or
27 step therapy.

28 (2) If the federal Food and Drug Administration has approved
29 one or more therapeutic equivalents of a drug, device, or product
30 for the prevention of HIV and AIDS, paragraph (1) of this
31 subsection shall not be construed to require the plan to cover all
32 therapeutically equivalent versions without prior authorization or
33 step therapy, if at least one version is covered without prior
34 authorization or step therapy.

35 b. An individual health benefits plan shall not:

36 (1) prohibit, or permit a delegated pharmacy benefits manager to
37 prohibit, a pharmacist from dispensing HIV preexposure
38 prophylaxis or HIV postexposure prophylaxis; and

39 (2) be required to cover HIV preexposure prophylaxis that has
40 been furnished by a pharmacist without an individual prescription
41 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
42 before the Legislature as this bill) in excess of a 60-day supply for a
43 single patient within a given two year period.

44 c. Nothing in this section shall be construed to require an
45 individual health benefit plan to provide coverage for HIV
46 preexposure prophylaxis or HIV postexposure prophylaxis
47 furnished by a pharmacist at an out-of-network pharmacy, unless
48 the contract has an out-of-network pharmacy benefit.

1 d. The provisions of this section shall apply to all health benefit
2 plans in which the carrier has reserved the right to change the
3 premium.

4 e. As used in this section:

5 “HIV preexposure prophylaxis” means the same as that term is
6 defined in section 1 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 “HIV postexposure prophylaxis” means the same as that term is
9 defined in section 1 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 “Step therapy” means requiring that a lower-cost alternative to
12 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
13 shown to have been ineffective as a condition of providing
14 prescription benefits.¹

15
16 ^{19.} a. (1) Except as provided in paragraph (2) of this
17 subsection, every small employer health benefits plan that is
18 delivered, issued, executed, or renewed in this State pursuant to
19 P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or
20 renewal in this State, on or after the effective date of this act, shall
21 provide benefits to any person covered thereunder for HIV
22 preexposure prophylaxis and HIV postexposure prophylaxis
23 furnished without an individual prescription pursuant to the
24 requirements of section 2 of P.L. , c. (C.) (pending before
25 the Legislature as this bill) without requiring prior authorization or
26 step therapy.

27 (2) If the federal Food and Drug Administration has approved
28 one or more therapeutic equivalents of a drug, device, or product
29 for the prevention of HIV and AIDS, paragraph (1) of this
30 subsection shall not be construed to require the plan to cover all
31 therapeutically equivalent versions without prior authorization or
32 step therapy, if at least one version is covered without prior
33 authorization or step therapy.

34 b. A small employer health benefits plan shall not:

35 (1) prohibit, or permit a delegated pharmacy benefits manager to
36 prohibit, a pharmacist from dispensing HIV preexposure
37 prophylaxis or HIV postexposure prophylaxis; and

38 (2) be required to cover HIV preexposure prophylaxis that has
39 been furnished by a pharmacist without an individual prescription
40 pursuant to section 2 of P.L. , c. (C.) (pending
41 before the Legislature as this bill) in excess of a 60-day supply for a
42 single patient within a given two year period.

43 c. Nothing in this section shall be construed to require a small
44 employer health benefit plan to provide coverage for HIV
45 preexposure prophylaxis or HIV postexposure prophylaxis
46 furnished by a pharmacist at an out-of-network pharmacy, unless
47 the contract has an out-of-network pharmacy benefit.

1 d. The provisions of this section shall apply to all health benefit
2 plans in which the carrier has reserved the right to change the
3 premium.

4 e. As used in this section:

5 “HIV preexposure prophylaxis” means the same as that term is
6 defined in section 1 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 “HIV postexposure prophylaxis” means the same as that term is
9 defined in section 1 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 “Step therapy” means requiring that a lower-cost alternative to
12 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
13 shown to have been ineffective as a condition of providing
14 prescription benefits.¹

15

16 ¹10. a. (1) Except as provided in paragraph (2) of this
17 subsection, notwithstanding any provision of law to the contrary, a
18 certificate of authority to establish and operate a health maintenance
19 organization in this State shall not be issued or continued by the
20 Commissioner of Banking and Insurance on or after the effective
21 date of this act unless the health maintenance organization provides
22 health care services to any enrollee for expenses incurred for HIV
23 preexposure prophylaxis and HIV postexposure prophylaxis
24 furnished without an individual prescription pursuant to the
25 requirements of section 2 of P.L. , c. (C.) (pending before
26 the Legislature as this bill) without requiring prior authorization or
27 step therapy.

28 (2) If the federal Food and Drug Administration has approved
29 one or more therapeutic equivalents of a drug, device, or product
30 for the prevention of HIV and AIDS, paragraph (1) of this
31 subsection shall not be construed to require the plan to cover all
32 therapeutically equivalent versions without prior authorization or
33 step therapy, if at least one version is covered without prior
34 authorization or step therapy.

35 b. A health maintenance organization shall not:

36 (1) prohibit, or permit a delegated pharmacy benefits manager to
37 prohibit, a pharmacist from dispensing HIV preexposure
38 prophylaxis or HIV postexposure prophylaxis; and

39 (2) be required to cover HIV preexposure prophylaxis that has
40 been furnished by a pharmacist without an individual prescription
41 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
42 before the Legislature as this bill) in excess of a 60-day supply for a
43 single patient within a given two year period.

44 c. Nothing in this section shall be construed to require a health
45 maintenance organization to provide coverage for HIV preexposure
46 prophylaxis or HIV postexposure prophylaxis furnished by a
47 pharmacist at an out-of-network pharmacy, unless the contract has
48 an out-of-network pharmacy benefit.

1 d. The benefits shall be provided to the same extent as for any
2 other medical condition under the contract.

3 e. As used in this section:

4 “HIV preexposure prophylaxis” means the same as that term is
5 defined in section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 “HIV postexposure prophylaxis” means the same as that term is
8 defined in section 1 of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10 “Step therapy” means requiring that a lower-cost alternative to
11 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
12 shown to have been ineffective as a condition of providing
13 prescription benefits.¹

14

15 ¹11. a. (1) Notwithstanding any State law or regulation to the
16 contrary, and except as provided in paragraph (2) of this subsection,
17 the Department of Human Services shall ensure that the provision
18 of benefits for HIV preexposure prophylaxis and HIV postexposure
19 prophylaxis furnished without an individual prescription pursuant to
20 the requirements of section 2 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) to eligible persons under the
22 Medicaid program, established pursuant to P.L.1968, c.413
23 (C.30:4D-1 et seq.), shall be provided without the imposition of any
24 prior authorization or step therapy requirements.

25 (2) If the federal Food and Drug Administration has approved
26 one or more therapeutic equivalents of a drug, device, or product
27 for the prevention of HIV and AIDS, paragraph (1) of this
28 subsection shall not be construed to require the department to
29 ensure coverage of all therapeutically equivalent versions without
30 prior authorization or step therapy, if at least one version is covered
31 without prior authorization or step therapy.

32 b. As used in this section:

33 “HIV preexposure prophylaxis” means the same as that term is
34 defined in section 1 of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 “HIV postexposure prophylaxis” means the same as that term is
37 defined in section 1 of P.L. , c. (C.) (pending before the
38 Legislature as this bill).

39 “Step therapy” means requiring that a lower-cost alternative to
40 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
41 shown to have been ineffective as a condition of providing
42 prescription benefits coverage for the prophylaxis.¹

43

44 ¹12. a. (1) Except as provided in paragraph (2) of this
45 subsection, the State Health Benefits Commission shall provide
46 benefits to each person covered under the State Health Benefits
47 Program for expenses incurred for HIV preexposure prophylaxis

1 and HIV postexposure prophylaxis furnished without an individual
2 prescription pursuant to the requirements of section 2 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill) without
4 requiring prior authorization or step therapy.

5 (2) If the federal Food and Drug Administration has approved
6 one or more therapeutic equivalents of a drug, device, or product
7 for the prevention of HIV and AIDS, paragraph (1) of this
8 subsection shall not be construed to require the contract to cover all
9 therapeutically equivalent versions without prior authorization or
10 step therapy, if at least one version is covered without prior
11 authorization or step therapy.

12 b. The State Health Benefits Commission shall not:

13 (1) prohibit, or permit a delegated pharmacy benefits manager to
14 prohibit, a pharmacist from dispensing HIV preexposure
15 prophylaxis or HIV postexposure prophylaxis; and

16 (2) be required to cover HIV preexposure prophylaxis that has
17 been furnished by a pharmacist without an individual prescription
18 pursuant to pursuant to section 2 of P.L. , c. (C.) (pending
19 before the Legislature as this bill) in excess of a 60-day supply for a
20 single patient within a given two year period.

21 c. Nothing in this section shall be construed to require the State
22 Health Benefits Commission to provide coverage for HIV
23 preexposure prophylaxis or HIV postexposure prophylaxis
24 furnished by a pharmacist at an out-of-network pharmacy, unless
25 the contract has an out-of-network pharmacy benefit.

26 d. The benefits shall be provided to the same extent as for any
27 other medical condition under the contract.

28 e. As used in this section:

29 “HIV preexposure prophylaxis” means the same as that term is
30 defined in section 1 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32 “HIV postexposure prophylaxis” means the same as that term is
33 defined in section 1 of P.L. , c. (C.) (pending before the
34 Legislature as this bill).

35 “Step therapy” means requiring that a lower-cost alternative to
36 HIV preexposure prophylaxis or HIV postexposure prophylaxis be
37 shown to have been ineffective as a condition of providing
38 prescription benefits.¹

39
40 ¹13. The Commissioner of Human Services shall apply for such
41 State plan amendments or waivers as may be necessary to
42 implement the provisions of section 11 of this act and to secure
43 federal financial participation for State Medicaid expenditures
44 under the federal Medicaid program.¹

45
46 ¹14. a. Within 90 days after the date of enactment of this act,
47 and notwithstanding the provisions of the “Administrative
48 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the

1 contrary, the State Board of Pharmacy, in consultation with the
2 Department of Health, immediately upon filing proper notice with
3 the Office of Administrative Law, shall adopt rules and regulations
4 as may be necessary to implement the provisions of this act.

5 b. The rules and regulations adopted pursuant to subsection a.
6 of this section shall be in effect for a period not to exceed one year
7 from the date of filing. These rules and regulations shall thereafter
8 be adopted, amended, or readopted by the board, in consultation
9 with the Department of Health, in accordance with the requirements
10 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
11 1 et seq.).¹

12

13 ¹[9.] 15.¹ This act shall take effect immediately.