

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 178
Committee Substitute Favorable 5/11/21

Short Title: Access to Prescription Drug Cost Information.

(Public)

Sponsors:

Referred to:

March 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ACCESS TO ACCURATE PRESCRIPTION DRUG BENEFIT COST
3 INFORMATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding a new Article
6 to read:

7 "Article 56B.

8 "Access to Prescription Drug Benefit Cost Information.

9 **"§ 58-56B-1. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Coverage. – The drug formulary information for a health benefit plan that
12 includes the brand and generic prescription drugs that the payor will cover for
13 a specific patient under the patient's health benefit plan.
- 14 (2) Dispenser. – Anyone licensed to dispense prescription drugs under the laws
15 of this State.
- 16 (3) Health care services. – A health or medical care procedure or service rendered
17 by a health care provider or prescriber that does at least one of the following:
18 a. Provides testing, diagnosis, or treatment of a human disease or
19 dysfunction.
20 b. Dispenses drugs, medical devices, medical appliances, or medical
21 goods for the treatment of a human disease or dysfunction.
- 22 (4) Intermediary. – Any entity, including real-time networks and translation
23 services, that accepts an electronic transaction from another organization and
24 electronically routes the transaction to a receiving entity or facilitates the
25 routing of prescription drug benefit transactions.
- 26 (5) Patient-specific eligibility information. – Information on the status of the
27 health benefit plan and the prescription benefit available under a health benefit
28 plan provided to a specific patient by a payor, including any exclusions and
29 limitations under the health benefit plan and the prescription drug benefit
30 under the health benefit plan.
- 31 (6) Patient-specific prescription drug benefit and cost information. – The type of
32 prescription drug coverage offered to a patient by the patient's payor and any
33 out-of-pocket costs that may be incurred by the patient under the coverage,
34 including the patient's copayment, coinsurance, and deductible.
- 35 (7) Payor. – Any of the following:



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- 1 a. An insurer or nonprofit health service plan that provides hospital,
2 medical, prescription drug, or surgical benefits to individuals or
3 groups on an expense-incurred basis under health insurance policies
4 or contracts that are issued or delivered in the State.
- 5 b. A health maintenance organization that provides hospital, medical, or
6 surgical benefits or prescribes drugs to individuals or groups under
7 contracts that are issued or delivered in the State.
- 8 (8) Pharmacy benefits manager. – As defined in G.S. 58-56A-1.
- 9 (9) Prescriber. – A licensed health care professional authorized by law to
10 prescribe a prescription drug.
- 11 (10) Provider. – Any person or facility that is licensed or authorized in this State to
12 provide health care services.
- 13 (11) Real time. – Exchange of patient eligibility, product coverage, and benefit
14 financials for a choice product and pharmacy and identification of coverage
15 restrictions and alternatives when they exist. This information is delivered
16 immediately after product selection using electronic prescribing platforms or
17 systems.
- 18 (12) Standard transaction. – Any electronic process that does all of the following:
- 19 a. Facilitates interoperability and data exchange of prescription drug
20 benefit and investigation response information.
- 21 b. Is developed by an organization accredited by the American National
22 Standards Institute.
- 23 (13) Switch. – Has the same meaning as the term "intermediary."
- 24 (14) Therapeutically equivalent alternative. – Any prescription drug that does all
25 of the following:
- 26 a. Has the same clinical effect and safety profile to another prescription
27 drug prescribed for a patient.
- 28 b. Is known to have nearly identical properties to another prescription
29 drug prescribed for a patient.
- 30 c. Uses real-time prescription benefit standards developed by an
31 organization accredited by the American National Standards Institute.

32 **"§ 58-56B-5. Findings of fact.**

33 The General Assembly of North Carolina makes the following findings:

- 34 (1) There is a need for clear and meaningful transparency that lowers
35 out-of-pocket prescription drug costs for patients and drives clinically
36 appropriate, data-driven shared decision making that ensures patients are
37 informed and understand the full range of options to obtain their medically
38 necessary medications.
- 39 (2) Patients need to understand the opportunity to derive full value of their health
40 benefit plan formularies and understand coverage and payment considerations
41 for drugs on those formularies, including lower-cost clinical and therapeutic
42 alternatives.
- 43 (3) Patients need to understand the opportunity to benefit from competitive
44 pricing of prescription drugs outside their health benefit plan's prescription
45 drug formulary, whether in the form of a lower cash price, patient assistance,
46 or foundation programs.

47 **"§ 58-56B-10. Access to prescription drug benefit and cost information.**

48 (a) Health benefit plans, pharmacy benefits managers, or any entities acting on behalf of
49 a health benefit plan shall electronically provide to (i) any point of prescribing of a prescription
50 drug, (ii) any point of dispensing of a prescription drug, or (iii) any patient-facing, real-time

1 benefit tool the minimum information described in G.S. 58-56B-15(c) to inform patient
2 prescription price transparency and patients' access to their prescribed medications.

3 (b) Payors, providers, pharmacies, and other organizations involved in the process of
4 prescribing, dispensing, paying for, and exchanging information relating to prescription drugs,
5 including intermediaries, real-time networks, switches, and translation services shall take any
6 actions necessary to facilitate the creation of, access to, and use of the technology described in
7 subsection (a) of this section.

8 (c) Patient prescription price transparency technology shall not be prohibited from
9 displaying patient financial and resource assistance when that information is available for the
10 prescription drug selected by a provider.

11 **"§ 58-56B-15. Real-time requirements.**

12 (a) Requests for patient-specific drug benefit and cost information through the
13 technology required under G.S. 58-56B-10 and any responses to those requests using that
14 technology shall be sent and received in real time.

15 (b) The real-time exchange of patient-specific eligibility information, including any
16 information related to a health benefit plan's coverage, benefits, formulary, and cost-sharing
17 requirements, shall be facilitated using health care industry standards developed by an
18 organization accredited by the American National Standards Institute.

19 (c) Electronic health records shall display, through real-time integration, the most
20 up-to-date patient-specific eligibility information, including information on a health benefit
21 plan's coverage, benefits, formulary, cost-sharing requirements, therapeutically equivalent
22 alternatives, and prior authorization requirements.

23 (d) Electronic health record vendors, payors, providers, prescribers, pharmacies, and
24 other organizations involved in the process of prescribing, dispensing, paying for, and
25 exchanging information relating to prescription drugs shall partner with intermediaries to ensure
26 the delivery of accurate patient-specific prescription price transparency information.

27 (e) Intermediaries shall be capable of supporting and using a standard transaction that
28 meets the requirements of this section.

29 (f) Patient-specific information, as described in G.S. 58-56B-15(c), shall be provided in
30 real time.

31 **"§ 58-56B-20. Benefit and cost information requirements.**

32 (a) Nothing in this Article shall interfere with patient choice and a health care
33 professional's ability to convey the full range of prescription drug cost options to a patient. Health
34 benefit plans, pharmacy benefit managers, or any entities acting on behalf of a health benefit plan
35 shall not restrict a health care professional from communicating prescription cost options to a
36 patient.

37 (b) A payor shall not prohibit the display of patient-specific prescription drug benefit and
38 cost information at the point of prescribing that reflects options available for covering the cost of
39 a prescription drug other than what may be available under the patient's health benefit plan,
40 including cash-pay options, coverage through assistance or support programs, and cost coverage
41 options at the patient's pharmacy of choice.

42 (c) A provider or prescriber shall communicate to a patient the most therapeutically
43 appropriate treatment for the patient's diagnosis and, when appropriate, prescription drug cost
44 information, including the cash price, therapeutically equivalent alternatives, and delivery
45 options for a prescription drug.

46 (d) In order to protect a patient's privacy and right to choose the means of prescription
47 drug cost coverage, if a patient chooses not to use the prescription drug benefit under the patient's
48 health benefit plan to obtain a prescription drug, a provider does not have an obligation to convey
49 that fact to the payor who provides the health benefit plan.

50 (e) A pharmacist filling a prescription for a specific biological product may substitute an
51 interchangeable biological product only if (i) the prescriber has not indicated that the pharmacist

1 may not substitute an interchangeable biosimilar biological product for the prescribed biological
2 product and (ii) the Food and Drug Administration has determined the biological product to be
3 substituted is interchangeable with the prescribed biological product.

4 **"§ 58-56B-25. Construction.**

5 Nothing in this Article shall be construed to interfere with a patient's choice of prescription
6 drug cost coverage or to interfere with patient choice and the ability of a health care professional
7 to convey the full range of prescription drug cost options to a patient. Health benefit plans,
8 pharmacy benefit managers, or any entities acting on behalf of a health benefit plan shall not
9 restrict a health care professional from communicating prescription cost options to a patient."

10 **SECTION 2.** This act becomes effective January 1, 2023.