

SECOND REGULAR SESSION

HOUSE BILL NO. 2240

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEVENSON.

Read 1st time February 21, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4883L.02I

AN ACT

To amend chapter 376, RSMo, by adding thereto two new sections relating to transparency in health communications, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto two new sections, to be known as sections 376.1460 and 376.1465, to read as follows:

376.1460. 1. The department of health and senior services shall promulgate rules governing switch communications from health benefit plans, as defined in section 376.1350, to patients. As used in this section, "switch communication" means a communication that recommends a patient's medication be switched to a different medication than the medication originally prescribed by the primary health care professional.

2. Such rules shall include, but not be limited to the following:

(1) Requirements for review and approval of switch communications by the department;

(2) Procedures for verifying the accuracy of any switch communications from health benefit plans to ensure that such switch communications are truthful, accurate, and not misleading;

(3) A requirement that all switch communications bear a prominent legend on the first page that states: "This is not a product safety notice. This is a promotional announcement from your health care insurer about one of your current prescribed medications.";

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (4) A requirement that, if the switch communication contains information
17 regarding a potential therapeutic substitution, such communication shall explain that
18 medications in the same therapeutic class are associated with different risks and benefits
19 and may work differently in different patients.

20 3. All switch communications to patients shall clearly disclose any financial interest
21 that the health care insurer, pharmacy benefits manager (PBM), prescriber, or any agent
22 of such insurer, manager, or prescriber, has in the patient's decision to switch medications.
23 In particular, cash or in-kind compensation payable to prescribers or their professional
24 practices for switching patients from their currently prescribed medication to a different
25 medication shall be disclosed to the patient.

26 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
27 that is created under the authority delegated in this section shall become effective only if
28 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
29 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
30 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
31 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
32 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
33 adopted after August 28, 2008, shall be invalid and void.

 376.1465. 1. Issuing or delivering or causing to be issued or delivered a switch
2 communication that has not been approved and is not in compliance with the requirements
3 of section 376.1460 is punishable by a fine not to exceed twenty-five thousand dollars.

4 2. Providing a misrepresentation or false statement in a switch communication
5 under section 376.1460 is punishable by a fine not to exceed twenty-five thousand dollars.

6 3. Any other material violation of section 376.1460 is punishable by a fine not to
7 exceed twenty-five thousand dollars.

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