HOUSE SUBSTITUTE AMENDMENT NO. _____

for

HOUSE _____ **AMENDMENT NO.____**

Offered By

_____   _____

1   AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2   Senate Bill No. 826, Page 17, Section 338.056, Line 38, by inserting after all of said section and
3   line the following:
4
5   "376.387. 1. For purposes of this section, the following terms shall mean:
6   (1) "Covered person", the same meaning as such term is defined in section 376.1257;
7   (2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;
8   (3) "Health carrier", the same meaning as such term is defined in section 376.1350;
9   (4) "Pharmacy benefits manager", the same meaning as such term is defined in section
10   376.388.
11   2. No pharmacy benefits manager shall charge or collect from a covered person a co-
12   payment for a prescription or pharmacy service that exceeds the amount retained by the pharmacist
13   or pharmacy from all payment sources for filling the prescription or providing the service.
14   3. No pharmacy benefits manager shall prohibit a pharmacist or pharmacy with which the
15   pharmacy benefits manager has entered a contract from doing either of the following:
16   (1) Informing a covered person of the difference between the covered person's co-payment
17   for a prescription drug and the amount the covered person would pay if the covered person did not
18   use a health benefit plan to cover the cost; or
19   (2) Selling a prescription drug to a covered person who chooses not to use a health benefit
20   plan to cover the cost, provided the cost to the covered person is less than the covered person's co-
21   payment for the drug.
22   4. No pharmacy benefits manager shall restrict or interfere with a pharmacists's ability to
23   provide pharmacy care to a covered person, including providing pharmacist-patient communications
24   and discussing alternative drug options.
25   5. No pharmacy benefits manager shall charge or hold a pharmacist or pharmacy
26   responsible for any fee that is related to a claim unless the amount of the fee can be determined and
27   has been disclosed to the pharmacist or pharmacy at the time of the claim's adjudication.
28   6. No pharmacy benefits manager shall prohibit a pharmacist or pharmacy from making any
29   written or oral statement to any state, county, or municipal official or before any state, county, or
30   municipal committee, body, or proceeding.
31   7. The department of insurance, financial institutions and professional registration shall
32   enforce the provisions of this section.

Action Taken_____ Date _____

1   8. Any person aggrieved by a pharmacy benefits manager's violation of this section may
2   bring a civil action against the pharmacy benefits manager that violated the provisions of this
3   section.
4   9. If any person believes that a pharmacy benefits manager has committed a violation of
5   subsections 2 through 5 of this section, they may mail written notice to the pharmacy benefits
6   manager describing the alleged violation and allow the pharmacy benefits manager ten business
7   days from the date the notice was postmarked to remedy such alleged violation. If such alleged
8   violation is not so remedied, then such person may request the department of insurance, financial
9   institutions and professional registration to conduct an arbitration proceeding in a manner prescribed
10   by such division, provided that the division shall issue a ruling within seventy days of receiving the
11   request. The division may join similar claims and claims presenting a common issue of fact. The
12   department may establish a reasonable fee, which shall be paid by the non-prevailing party. The
13   division's ruling shall be final and binding on all parties unless appealed as provided in chapter 536.
14   10. The department of insurance, financial institutions and professional registration may
15   promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a
16   rule, as that term is defined in section 536.010 that is created under the authority delegated in this
17   section shall become effective only if it complies with and is subject to all of the provisions of
18   chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and
19   if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay
20   the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
21   grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be
22   invalid and void."; and
23
24   Further amend said bill by amending the title, enacting clause, and intersectional references
25   accordingly.
26
27   THIS AMENDMENT SUBSTITUTES 5029H07.07H