

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 2372, Page 49, Section 345.050, Line
2 20, by inserting after said section and line the following:

3
4 "376.387. 1. For purposes of this section, the following terms shall mean:

5 (1) "Covered person", [~~the same meaning as such term is defined in section 376.1257~~] a
6 policyholder, subscriber, enrollee, or other individual whose prescription drug coverage is
7 administered through a pharmacy benefits manager or a health benefit plan;

8 (2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;

9 (3) "Health carrier" or "carrier", the same meaning as such term is defined in section
10 376.1350;

11 (4) "Pharmacy", the same meaning as such term is defined in chapter 338;

12 (5) "Pharmacy benefits manager", the same meaning as such term is defined in section
13 376.388;

14 (6) "Pharmacy claims data", information regarding a prescription transaction that is
15 adjudicated by a pharmacy benefits manager for a covered person between the pharmacy and the
16 pharmacy benefits manager and between the pharmacy benefits manager and the health benefit
17 plan sponsor.

18 2. No pharmacy benefits manager shall include a provision in a contract entered into or
19 modified on or after August 28, 2018, with a pharmacy or pharmacist that requires a covered
20 person to make a payment for a prescription drug at the point of sale in an amount that exceeds
21 the lesser of:

22 (1) The copayment amount as required under the health benefit plan; or

23 (2) The amount an individual would pay for a prescription if that individual paid with
24 cash.

25 3. A pharmacy or pharmacist shall have the right to provide to a covered person
26 information regarding the amount of the covered person's cost share for a prescription drug, the
27 covered person's cost of an alternative drug, and the covered person's cost of the drug without
28 adjudicating the claim through the pharmacy benefits manager. Neither a pharmacy nor a
29 pharmacist shall be proscribed by a pharmacy benefits manager from discussing any such
30 information or from selling a more affordable alternative to the covered person.

Action Taken _____ Date _____

1 4. No pharmacy benefits manager shall, directly or indirectly, charge or hold a
2 pharmacist or pharmacy responsible for any fee amount related to a claim that is not known at
3 the time of the claim's adjudication, unless the amount is a result of improperly paid claims or
4 charges for administering a health benefit plan.

5 5. This section shall not apply with respect to claims under Medicare Part D, or any
6 other plan administered or regulated solely under federal law, and to the extent this section may
7 be preempted under the Employee Retirement Income Security Act of 1974 for self-funded
8 employer-sponsored health benefit plans.

9 6. A pharmacy benefits manager shall notify in writing any health carrier with which it
10 contracts if the pharmacy benefits manager has a conflict of interest, any commonality of
11 ownership, or any other relationship, financial or otherwise, between the pharmacy benefits
12 manager and any other health carrier with which the pharmacy benefits manager contracts.

13 7. A pharmacy benefits manager shall have a duty to disclose to a health benefit plan
14 sponsor. As used in this subsection, "duty to disclose" shall mean notifying the health benefit
15 plan sponsor of material facts and actions taken by a pharmacy benefits manager related to the
16 administration of the pharmacy benefits on behalf of the health benefit plan sponsor that:

17 (1) May increase costs to the sponsor or its covered persons as compared to a more
18 prudent action that could be taken; or

19 (2) Present a conflict of interest between the interests of the sponsor and its covered
20 persons and the interests of the pharmacy benefits manager.

21 8. Any entity that enters into a contract to sell, provide, pay, or reimburse a pharmacy in
22 the state for prescription drugs on behalf of itself or another entity shall not prohibit a health
23 benefit plan sponsor and a participating pharmacy from discussing any health benefit plan
24 information, including pharmacy claims data or costs.

25 9. The department of commerce and insurance shall enforce this section."; and

26
27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.