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DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 71

AN ACT TO AMEND TITLE 18 AND TITLE 24 OF THE DELAWARE CODE RELATING PHARMACY
OWNERSHIP AND PHARMACY BENEFITS MANAGERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter III, Chapter 33A, Title 18 of the Delaware Code by making deletions as shown by
strike through and insertions as shown by underline as follows:

Subchapter III. Prohibited Requirements and Permitted Disclosures Related to Prescription Drugs.

§ 3333A. Prohibited requirements; incentives.

(a) A pharmacy benefit manager may not require an insured to use a retail pharmacy, mail-order pharmacy,
specialty pharmacy, or other entity providing pharmacy services in which the pharmacy benefit manager has
an ownership interest or that has an ownership interest in the pharmacy benefit manager.

(b) A pharmacy benefit manager may not provide an incentive to an insured to encourage an insured to use a retail
pharmacy, mail-order pharmacy, specialty pharmacy, or other entity providing pharmacy services in which the pharmacy
benefit manager has an ownership interest or that has an ownership interest in the pharmacy benefit manager.

Section 2. Amend § 2528, Title 24 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 2528. Requirements for and issuance of permit.

(d)(1) A permit to operate a pharmacy may not be issued or renewed unless the applicant is 1 or more of the
following:

a. A licensed pharmacist in good standing.

b. A partnership in which each active member is a licensed pharmacist in good standing.

c. A corporation in which the majority stock is owned by licensed pharmacists in good standing.

d. A limited liability company, in which the majority membership interests are owned by licensed
pharmacists in good standing, actively and regularly employed in and responsible for the management,
supervision, and operation of the pharmacy.

22 (2) This subsection does not apply to any of the following applicants:

23 a. The holder of a permit to operate a pharmacy on [the effective date of this Act] unless the holder of a
24 permit to operate a pharmacy discontinues operations under the permit or fails to renew the permit upon
25 expiration.

26 b. A hospital pharmacy furnishing service only to patients in that hospital and employees or former
27 employees of that hospital.

SYNOPSIS

This Act protects consumers from paying high prices for prescription drugs by ensuring competition in the marketplace by doing the following:

1. Prohibiting a pharmacy benefit manager from requiring or providing an incentive for an insured individual to use a pharmacy in which the pharmacy benefit manager has an ownership interest.

2. Requiring that a pharmacy must be owned by a pharmacist or by a majority of pharmacists if owned by an artificial entity. This ownership requirement is modelled on the same requirement in North Dakota law, enacted in 1963, which has kept North Dakota prescription prices among the lowest in the country and provides North Dakotans with more pharmacies per capita than the national average and a high level of care from locally owned pharmacies. This ownership requirement does not apply to current holders of a permit to operate a pharmacy or to hospital pharmacies that furnishes services only to patients and employees.

Author: Senator Delcollo