



SPONSOR: Rep. Bennett & Sen. Paradee & Sen. Delcollo

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE CONCURRENT RESOLUTION NO. 57

ESTABLISHING A PHARMACY REIMBURSEMENT TASK FORCE.

WHEREAS, pharmacy benefit managers (“PBMs”) are now responsible for managing the pharmacy benefits for more than 266 million Americans with health insurance; and

WHEREAS, over 80% of all pharmaceuticals in the United States are purchased through PBM networks; and

WHEREAS, PBMs serve as intermediaries between health plans, pharmaceutical manufacturers and pharmacies, and PBMs establish networks for consumers to receive reimbursement for drugs; and

WHEREAS, PBM practices have increasingly raised concerns, including a practice known as “spread pricing” in which a PBM charges an insurer more for a drug than it reimburses the pharmacy that dispensed the drug and keeps the difference as a potential profit; and

WHEREAS, spread pricing practices are alleged to have resulted in discrepancies costing Medicaid programs in Ohio, Kentucky, and Michigan millions; and

WHEREAS, there is a growing concern among pharmacists about the low reimbursement rates from PBMs with reports that PBMs are sometimes reimbursing pharmacies at rates below the pharmacy’s acquisition cost of a drug and that this practice is threatening the financial viability of independent pharmacies in this State and the care of all Delawareans.

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 150th General Assembly of the State of Delaware, the House of Representatives concurring therein, that the Pharmacy Reimbursement Task Force (“Task Force”) is established to do the following:

(1) Study the reimbursement practices of PBMs as they relate to Delaware pharmacies and impact pharmacies and health care plans in this State, including Medicare, Medicaid, and the State’s employee health care plan.

(2) Investigate the perceived disparity in PBM reimbursement rates between independent pharmacies and chain or PBM-owned pharmacies.

(3) Study the best practices and laws adopted by other states to address concerns with pharmacy reimbursement practices of PBMs.

(4) Make any necessary recommendations, including for legislative action.

BE IT FURTHER RESOLVED that the Task Force be composed of 17 members as follows:

(1) 9 members serving by virtue of position, or a designee appointed by the member, as follows:

a. The Chair of the House of Representative's Economic Development, Banking, Insurance, and Commerce Committee.

b. The Chair of the Senate's Banking, Business, and Insurance Committee.

c. The Secretary of the Department of Health and Social Services.

d. The Insurance Commissioner.

e. The Director of the Statewide Benefits Office.

f. The Controller General.

g. The Director of the Office of Management and Budget.

h. The Chair of the Board of Pharmacy.

i. The President of the Delaware Pharmacists Society.

(2) A member of the minority caucus of the House of Representatives, appointed by the Speaker of the House of Representatives.

(3) A member of the minority caucus of the Senate, appointed by the President Pro Tempore of the Senate.

(4) The following members, appointed by the Speaker of the House of Representatives:

a. A representative of a chain pharmacy.

b. A representative of an independent pharmacy.

c. A representative of a health insurer.

(5) The following members, appointed by the President Pro Tempore of the Senate:

a. A representative of a managed care organization.

b. A hospital pharmacist who is a representative of the Delaware Hospital Association.

c. A representative of pharmacy benefit managers.

BE IT FURTHER RESOLVED that members serving by virtue of position who are granted the ability to designate another individual to attend a Task Force meeting must provide the designation in writing to the Chair. An individual attending a meeting for a member serving by virtue of position has the same duties and rights as the member serving by virtue of position.

BE IT FURTHER RESOLVED that the Chair of the House of Representative's Economic Development, Banking, Insurance, and Commerce Committee is the chair of the Task Force and the Chair of the Senate's Banking, Business, and Insurance Committee is the co-chair of the Task Force.

55 BE IT FURTHER RESOLVED that the Chief Clerk of the House notify the Chair of the Task Force's creation and
56 provide the Chair with a copy of the legislation creating the Task Force.

57 BE IT FURTHER RESOLVED that the Chair of the Task Force be responsible for guiding the administration of
58 the Task Force by, at a minimum, doing all of the following:

59 (1) Notifying the individuals listed in lines 25 through 47 of this Resolution of the formation of the Task
60 Force and the need to appoint a member, if applicable.

61 (2) Setting a date, time, and place for the initial organizational meeting.

62 (3) Supervising the preparation and distribution of Task Force meeting notices, agendas, minutes,
63 correspondence, and reports.

64 (4) Sending to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the
65 Director of the Division of Research of Legislative Council, after the first meeting of the Task Force, a list of the
66 members of the Task Force and the person who appointed them.

67 (5) Providing meeting notices, agendas, and minutes to the Director of the Division of Research of Legislative
68 Council.

69 (6) Ensuring that the final report of the Task Force is submitted to the President Pro Tempore of the Senate
70 and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the Governor,
71 the Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public Archives.

72 BE IT FURTHER RESOLVED that the Task Force must hold its first meeting no later than September 15, 2019,
73 and must meet at least once a month until the Task Force submits the report required by this Resolution.

74 BE IT FURTHER RESOLVED that a quorum of the Task Force is a majority of its members.

75 BE IT FURTHER RESOLVED that:

76 (1) Official action by the Task Force, including making findings and recommendations, requires the approval
77 of a quorum of the Task Force.

78 (2) The Task Force may adopt rules necessary for its operation. If the Task Force does not adopt rules or if the
79 adopted rules do not govern a given situation, *Mason's Manual of Legislative Procedure* controls.

80 BE IT FURTHER RESOLVED that the General Assembly is responsible for providing reasonable and necessary
81 support staff and materials for the Task Force.

82 BE IT FURTHER RESOLVED that the Chair and Co-Chair of the Task Force must compile a report containing a
83 summary of the Task Force's work regarding the issues assigned to it in lines 15 through 24 of this Resolution, including

84 any findings and recommendations by, and submit the report to the General Assembly, the Governor, and the Director and
85 the Librarian of the Division of Research of Legislative Council no later than December 15, 2019.

86 BE IT FURTHER RESOLVED that this House Concurrent Resolution expires on the date the Task Force submits
87 its findings and recommendations.

SYNOPSIS

This Concurrent Resolution establishes a task force to study pharmacy reimbursement practices in Delaware and the best practices and laws of other states to develop recommendations for action by the General Assembly or others.