

HB 821 -- Electronic Transmission of Prescriptions and Pharmacy Benefit Managers

Sponsor: Bernskoetter

This bill changes the laws regarding the electronic transmission of prescriptions and pharmacy benefit managers.

ELECTRONIC TRANSMISSION OF PRESCRIPTIONS

All prescriptions ordered electronically transmitted must allow for the review of the patient's current medication list and history by the physician as well as all medication available to the physician for the patient's condition; allow for an electronic prior authorization process for approval of exceptions or restrictions to a prescription; and minimize interference between physician and patient through a neutral and open platform. These provisions cannot prevent the use of paper prescriptions.

PHARMACY BENEFIT MANAGERS

The bill:

(1) Prohibits a pharmacy benefit manager from automatically enrolling a pharmacy in a contract or modifying an existing contract without an affirmation from the pharmacy or pharmacist, from requiring a pharmacy or a pharmacist to participate in a particular contract in order to participate in another contract, and from discriminating between in-network pharmacies or pharmacists on the basis of co-payments or days of supply with certain exceptions;

(2) Prohibits, when an insured presents a prescription to a pharmacy in the pharmacy benefit manager's network, the pharmacy benefit manager from reassigning the prescription to be filled by any other pharmacy;

(3) Requires a switch communication to clearly identify the originally prescribed medication and the medication to which it has been proposed that the patient should be switched; disclose any financial incentives that the pharmacy benefit manager or the prescribing practitioner may receive in the patient's decision to switch to a different medication; explain any clinical effects that the proposed medication may have which are different from the original prescription; advise the patient of the right to discuss the proposed change in treatment before a switch takes place, including with the patient's prescribing practitioner; and clearly identify any net change in the cost to the health insurance payer. The patient must also be advised of any

cost-sharing changes for which he or she is responsible. A copy of any switch communication must be sent to the patient and the patient's physician and to the plan sponsor or health carrier using a pharmacy benefit manager regarding the recommended medication and the cost. Any person who issues or delivers or causes to be issued or delivered a switch communication that has not been approved, provides a misrepresentation or false statement in a switch communication, or commits any other material violation of these provisions will be subject to a fine of up to \$25,000;

(4) Allows the prescribing physician to override any step therapy or fail first protocol when the treatment has been ineffective in treating the patient's disease or medical condition or based on sound clinical evidence or medical and scientific evidence that it is likely to be ineffective or will likely cause an adverse reaction or other harm. The duration of any step therapy or fail first protocol cannot last longer than 14 days. However, when the health carrier or the pharmacy benefit manager can show through sound clinical evidence that the originally prescribed medication is likely to require more than two weeks to provide any relief, the step therapy or fail first protocol may be extended up to seven additional days; and

(5) Requires every pharmacy benefit manager and health carrier requiring preauthorization or step therapy for a specific medication to provide a web site with a list of the medications which require preauthorization and the process required to comply with the pharmacy benefit manager's or health carrier's policies.