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Substitute Bill Comparative Synopsis

Sub. H.B. 505

135th General Assembly

House Insurance

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_135_2199-5)
Definitions	
Defines “actual acquisition cost” to mean the amount actually expended to procure a drug product after any manufacturer price concessions or rebates (<i>R.C. 3959.151(A)(1)</i>).	Defines “actual acquisition cost” to mean the amount that a drug wholesaler charges a pharmacy for a drug product as listed on the pharmacy’s billing invoice (<i>R.C. 3959.01(C)</i>).
No provision.	Defines “drug wholesaler” to mean a wholesale drug distributor accredited by a nationally recognized nonprofit organization that represents the interests of state boards of pharmacy and to which the state board of pharmacy is a member (<i>R.C. 3959.01(H)</i>).
No provision.	Clarifies the definition of “maximum allowable cost list” to specify that it means a list where a maximum allowable cost can be imposed either directly or by setting forth a method for how the maximum allowable cost is calculated (<i>R.C. 3959.01(N)</i>).

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No provision.	Defines “national drug code number” or “national drug code” to mean the number registered for a drug pursuant to the listing system established by the United States Food and Drug Administration under the “Drug Listing Act of 1972,” 21 United States Code 360 (<i>R.C. 3959.01(P)</i>).
No provision.	Defines “Ohio pharmacy” to mean a pharmacy, including an independent pharmacy, that is incorporated or organized in this state under Title 17 of the Revised Code (<i>R.C. 3959.01(Q)</i>).
No provision.	<p>Defines “retaliate” to mean any of the following actions taken by a pharmacy benefit manager:</p> <ul style="list-style-type: none"> ▪ Terminating or refusing to renew a contract with a pharmacy; ▪ Subjecting a pharmacy to increased audits; ▪ Failing to promptly pay a pharmacy any money the pharmacy benefit manager owes to the pharmacy (<i>R.C. 3959.01(U)</i>).
Accreditation standards	
Prohibits Medicaid managed care organizations, or any pharmacy benefit manager under contract with the Medicaid Director or a Medicaid managed care organization to administer its prescribed drugs benefit, from requiring a pharmacy, as a condition of participating in the organization’s network, to meet accreditation standards or certification requirements that are inconsistent with or in addition to those of the State Board of Pharmacy (<i>R.C. 5167.127</i>).	No provision.
Drug product reimbursement and minimum dispensing fees	
Requires the Medicaid Director to calculate the minimum dispensing fee to be paid for each drug product dispensed and to publish the dispensing fee amount on a website maintained by the Department of Medicaid (<i>R.C. 5164.753(B)</i>).	No provision.

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<p>Requires the Superintendent of Insurance to calculate the minimum dispensing fee to be paid for each drug product dispensed, equal to the average acquisition cost in this state to dispense the drug product, based on data collected by the Department of Medicaid through the biennial drug dispensing cost survey (R.C. 3959.21(B)(1)).</p>	<p>Similar to the As Introduced version, but removes the requirement that the minimum dispensing fee be equal to the average acquisition cost in this state to dispense the drug product (R.C. 3959.21(B)(1)).</p>
<p>No provision.</p>	<p>Prohibits pharmacy benefit managers from reimbursing an Ohio pharmacy an amount less than the amount that the pharmacy benefit manager reimburses a pharmacy affiliated with the pharmacy benefit manager for providing the same drug product (R.C. 3959.111(C)).</p>
<p>No provision.</p>	<p>Permits an Ohio pharmacy to decline to provide a drug product if that pharmacy would be paid less than the actual acquisition cost of providing the drug product due to a maximum allowable cost list (R.C. 3959.111(D)).</p>
<p>No provision.</p>	<p>Prohibits any pharmacy benefit manager from retaliating against an Ohio pharmacy for reporting an alleged violation of, or for exercising a right or remedy under, the bill's drug product reimbursement or minimum dispensing fee provisions (R.C. 3959.111(F) and 3959.21(U)).</p>
Reporting requirements	
<p>Requires each pharmacy benefit manager to submit a monthly report to the Superintendent of Insurance and to its contracted insurers and plan sponsors of all drug claims processed the previous month in a machine-readable format (R.C. 3959.151(B)(1)).</p>	<p>Similar to the As Introduced version, but also requires that the report also be readable in plain language without the use of software (R.C. 3959.151(B)(1)).</p>
<p>Requires the state pharmacy benefit manager to submit its electronic report in a machine-readable format to the Department of Medicaid (R.C. 3959.151(B)(1)).</p>	<p>No provision.</p>

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<p>Requires the state pharmacy benefit manager to submit the monthly electronic report of all drug claims processed the previous month (<i>R.C. 5167.243(B)</i>).</p> <p>Requires the electronic report provided to an insurer, plan sponsor, or the Medicaid program to include an itemized list of the actual acquisition cost of each drug product from all drug product claims processed by the pharmacy benefit manager in the previous month for that insurer, the plan sponsor, or the Medicaid program (<i>R.C. 3959.151(B)(2)</i>).</p> <p>No provision.</p>	<p>No provision.</p> <p>Replaces the itemized list of the actual acquisition cost with an itemized list of the maximum allowable cost of each drug product (<i>R.C. 3959.151(B)(2)</i>).</p> <p>Prohibits any pharmacy benefit manager from retaliating against an Ohio pharmacy for reporting an alleged violation of, or for exercising a right or remedy under, this section of the bill (<i>R.C. 3959.151(D)</i>).</p>
Monitoring and enforcement	
<p>Permits a covered person or pharmacy affected by a violation of the bill's accreditation prohibition to bring a civil action against the health plan issuer or intermediary for compensatory damages and injunctive or other equitable relief (<i>R.C. 3902.76</i>).</p> <p>Permits a Medicaid enrollee or pharmacy affected by a violation of the bill's accreditation prohibition to bring a civil action against the organization or intermediary for compensatory damages and injunctive or other equitable relief (<i>R.C. 5167.128</i>).</p> <p>No provision.</p>	<p>Permits a covered person or pharmacy affected by a violation of the bill's accreditation prohibition to file a formal complaint with the Superintendent of Insurance (<i>R.C. 3902.75(C)</i>).</p> <p>No provision.</p> <p>Permits an Ohio pharmacy to file a formal complaint with the Superintendent of Insurance alleging that a pharmacy benefit manager has violated the bill's drug product reimbursement and minimum dispensing fee provisions (<i>R.C. 3959.111(G) and 3959.21(D)</i>).</p>

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No provision.	Permits an Ohio pharmacy to file a formal complaint with the Superintendent of Insurance alleging that a pharmacy benefit manager has violated the bill's monthly reporting provisions (<i>R.C. 3959.151(E)</i>).
No provision.	Requires the Superintendent of Insurance to evaluate complaints filed pursuant to the bill's accreditation, drug product reimbursement, minimum dispensing fee, and monthly reporting provisions (<i>R.C. 3902.76(A) and 3959.121(A)</i>).
No provision.	Requires the Superintendent to issue a notice of violation upon determining that a health plan issuer, intermediary, or pharmacy benefit manager has committed a violation and impose an administrative penalty of \$1,000 for each violation (<i>R.C. 3902.76(B)(1) and 3959.121(B)(1)</i>).
No provision.	Specifies that each day a violation continues following receipt of the notice of violation is considered a separate violation for the purposes of the administrative penalty (<i>R.C. 3902.76(B)(2) and 3959.121(B)(2)</i>).
No provision.	Requires the Superintendent to afford a health plan issuer, intermediary, or pharmacy benefit manager an opportunity for an adjudication hearing, at which the health plan issuer, intermediary, or pharmacy benefit manager may challenge the determination that violation has occurred, the imposition of the penalty, or both (<i>R.C. 3902.76(C) and 3959.121(C)</i>).
No provision.	Permits a health plan issuer, intermediary, or pharmacy benefit manager to appeal the Superintendent's determination and imposition of an administrative penalty (<i>R.C. 3902.76(C) and 3959.121(C)</i>).
No provision.	Requires collected administrative penalties to be deposited into the state treasury to the credit of the Department of Insurance operating fund (<i>R.C. 3902.76(D) and 3959.121(D)</i>).

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Applicability	
<p>Refers to “contracted pharmacies” throughout the bill’s drug product reimbursement and minimum dispensing fee provisions (<i>R.C. 3959.21(A)</i>).</p>	<p>Refers to “Ohio pharmacies” through the bill’s drug product reimbursement, minimum dispensing fee, monthly reporting, and enforcement provisions (<i>R.C. 3959.111, 3959.121, 3959.151, and 3959.21</i>).</p>
<p>Applies the bill’s drug product reimbursement and minimum dispensing fee provisions to any contracted pharmacy (<i>R.C. 3959.01(D), not in the bill</i>).</p>	<p>Restricts application of the bill’s drug product reimbursement, minimum dispensing fee, monthly reporting, and enforcement provisions to pharmacies incorporated or organized in Ohio under Title 17 of the Revised Code (<i>R.C. 3959.01(Q); Title 17, not in the bill</i>).</p>
<p>No provision.</p>	<p>States that the amendments to Ohio maximum allowable cost statute apply only to contracts between Ohio pharmacies and pharmacy benefit managers entered into, amended, or renewed on or after the effective date of the bill (<i>Section 5</i>).</p>