

SENATE BILL No. 1311

May 8, 2008, Introduced by Senators PATTERSON and GEORGE and referred to the Committee on Health Policy.

A bill to regulate certain activities of carriers with regard to medical benefit plans; to provide for the powers and duties of certain state and local governmental officers and entities; to prescribe penalties and prescribe remedies; and to provide for the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Carrier" means a health, dental, or vision insurance
3 company authorized to do business in this state under, and a health
4 maintenance organization or multiple employer welfare arrangement
5 operating under, the insurance code of 1956, 1956 PA 218, MCL
6 500.100 to 500.8302; a system of health care delivery and financing
7 operating under section 3573 of the insurance code of 1956, 1956 PA

1 218, MCL 500.3573; a nonprofit dental care corporation operating
2 under 1963 PA 125, MCL 550.351 to 550.373; a nonprofit health care
3 corporation operating under the nonprofit health care corporation
4 reform act, 1980 PA 350, MCL 550.1101 to 550.1704; a voluntary
5 employees' beneficiary association described in section 501(c)(9)
6 of the internal revenue code, 26 USC 501; a pharmacy benefits
7 manager; and any other person providing a plan of health benefits,
8 coverage, or insurance in this state.

9 (b) "Drug" means that term as defined in section 17703 of the
10 public health code, 1978 PA 368, MCL 333.17703.

11 (c) "Health care professional" means an individual licensed,
12 registered, or otherwise authorized to engage in the practice of a
13 health profession under article 15 of the public health code, 1978
14 PA 368, MCL 333.16101 to 333.18838.

15 (d) "Health facility or agency" means that term as defined in
16 section 20106 of the public health code, 1978 PA 368, MCL
17 333.20106.

18 (e) "Medical benefit plan" means a plan, established and
19 maintained by a carrier or 1 or more employers, that provides for
20 the payment of medical, optical, or dental benefits, including, but
21 not limited to, hospital and physician services, prescription
22 drugs, and related benefits, to employees.

23 (f) "Pharmacist" means a person licensed or otherwise
24 authorized to engage in the practice of pharmacy under part 177 of
25 the public health code, 1978 PA 368, MCL 333.17701 to 333.17780.

26 (g) "Physician" means an individual licensed or otherwise
27 authorized to practice as a physician under part 170 or part 175 of

1 the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and
2 MCL 333.17501 to 333.17556.

3 (h) "Provider" means a health facility or agency or a
4 physician.

5 Sec. 2. A carrier or any person acting on a carrier's behalf
6 shall not do any of the following:

7 (a) Pay a physician or other health care professional to
8 prescribe a specific drug or type of drug.

9 (b) Pay a physician, pharmacist, or other health care
10 professional to switch a stable patient from 1 drug to another
11 specific drug or type of drug.

12 (c) Provide financial incentives to a physician or other
13 health care professional to prescribe a specific drug or type of
14 drug.

15 (d) Provide a cash bonus or other reward to a physician or
16 other health care professional for compliance with medical benefit
17 plan guidelines regarding drugs to be used.

18 (e) Withhold a portion of a physician's or other health care
19 professional's compensation or financially penalize a physician or
20 other health care professional in some other way for failure to
21 comply with specific medication use mandates.

22 (f) Provide incentives or other inducements to a physician or
23 other health care professional to prescribe a specific drug or type
24 of drug.

25 (g) Engage in any other activity that may be viewed as a
26 kickback for prescribing a specific drug or type of drug.

27 Sec. 3. (1) On or before February 1, May 1, August 1, and

1 November 1 every year, a carrier shall report all of the following
2 to the attorney general for the immediately preceding quarter:

3 (a) Any payments, financial incentives, or other inducements
4 to physicians or other health care professionals that may be viewed
5 as an inducement to a physician or other health care professional
6 to prescribe a specific drug or type of drug or to switch a stable
7 patient from 1 drug to another specific drug or type of drug.

8 (b) Any other information the attorney general requires.

9 (2) Except as otherwise provided in subsection (3), on or
10 before February 1, May 1, August 1, and November 1 every year, a
11 physician or other health care professional shall report all of the
12 following to the attorney general for the immediately preceding
13 quarter:

14 (a) The receipt of any payments, financial incentives, or
15 other inducements from carriers that may be viewed as an inducement
16 to prescribe a specific drug or type of drug. A physician or other
17 health care professional is not required under this subdivision to
18 report regular compensation that is paid for the health care or
19 consulting services of that physician or other health care
20 professional, unless it is tied to the prescribing of a specific
21 drug or type of drug.

22 (b) Any other information the attorney general requires.

23 (3) On or before February 1, May 1, August 1, and November 1
24 every year, a pharmacist shall report all of the following to the
25 attorney general for the immediately preceding quarter:

26 (a) Any payments, financial incentives, or other inducements
27 to physicians or other health care professionals that may be viewed

1 as an inducement to a physician or other health care professional
2 to switch a stable patient from 1 drug to another specific drug or
3 type of drug.

4 (b) Any other information the attorney general requires.

5 Sec. 4. The attorney general shall promptly investigate
6 possible violations of this act based upon information received
7 from any source, including tips submitted from the general public.

8 Sec. 5. A person who violates this act is subject to a civil
9 fine not to exceed \$25,000.00 for each violation.