

SENATE BILL No. 47

January 27, 2009, Introduced by Senators KAHN, PAPPAGEORGE, RICHARDVILLE, SWITALSKI, GEORGE and GILBERT and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 9721.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9721. (1) THE DEPARTMENT SHALL CREATE AND OPERATE A
2 PRESCRIPTION DRUG WEBSITE TO EDUCATE CONSUMERS ABOUT THE PRICE OF
3 CERTAIN PRESCRIPTION DRUG PRODUCTS AND TO PROVIDE LINKS TO OTHER
4 HELPFUL WEBSITES INCLUDING, BUT NOT LIMITED TO, THOSE WEBSITES THAT
5 MAY ASSIST AND EDUCATE CONSUMERS ON THE AVAILABILITY OF PUBLIC AND
6 PRIVATE PROGRAMS THAT, IN COMPLIANCE WITH FEDERAL AND STATE RULES
7 AND REGULATIONS, OFFER ACCESS TO DISCOUNTED OR FREE PRESCRIPTION
8 DRUG PRODUCTS.

1 (2) THE DEPARTMENT SHALL INCLUDE ALL OF THE FOLLOWING ON THE
2 PRESCRIPTION DRUG WEBSITE:

3 (A) THE 150 MOST COMMONLY PRESCRIBED BRAND NAME DRUG PRODUCTS
4 AS REPORTED BY THIS STATE'S MEDICAL ASSISTANCE PROGRAM.

5 (B) IF NOT INCLUDED UNDER SUBDIVISION (A), THE MOST COMMONLY
6 PRESCRIBED BRAND NAME DRUG PRODUCTS USED FOR THE TREATMENT OF ALL
7 MAJOR ILLNESSES AND DISEASES, AS DETERMINED BY THE DEPARTMENT.

8 (C) IF AVAILABLE, THE GENERICALLY EQUIVALENT DRUG PRODUCTS FOR
9 THE BRAND NAME DRUG PRODUCTS INCLUDED UNDER SUBDIVISIONS (A) AND
10 (B).

11 (D) THE USUAL AND CUSTOMARY PRICE FOR EACH DRUG PRODUCT
12 INCLUDED UNDER SUBDIVISIONS (A), (B), AND (C). THE PRICE
13 INFORMATION ON THE WEBSITE SHALL CONSPICUOUSLY DISPLAY ALL OF THE
14 FOLLOWING:

15 (i) IF AVAILABLE, THE GENERICALLY EQUIVALENT DRUG PRODUCT FOR
16 EACH BRAND NAME DRUG PRODUCT.

17 (ii) THE PRICE ATTRIBUTABLE TO EACH BRAND NAME AND GENERICALLY
18 EQUIVALENT DRUG PRODUCT.

19 (iii) THE DOSAGE, INCLUDING THE NUMBER OF DOSES AND DOSAGE
20 STRENGTH, UPON WHICH THE POSTED PRICE IS BASED.

21 (iv) THE NAME, STREET ADDRESS, AND CITY OR OTHER IDENTIFIABLE
22 LOCATION OF THE PHARMACY AT WHICH THE LISTED DRUG PRODUCT MAY BE
23 PURCHASED AT A POSTED PRICE.

24 (E) A MINIMUM OF 5 LINKS TO OTHER WEBSITES AS DESCRIBED IN
25 SUBSECTION (1).

26 (F) THE DEPARTMENT'S TOLL-FREE TELEPHONE NUMBER CREATED UNDER
27 SUBSECTION (4).

1 (G) AN ADVISORY STATEMENT ALERTING CONSUMERS OF THE NEED TO
2 TELL THEIR HEALTH PROFESSIONAL AND PHARMACIST ABOUT ALL THE
3 MEDICATIONS THEY ARE TAKING AND TO ASK HOW TO AVOID HARMFUL
4 INTERACTIONS BETWEEN THOSE MEDICATIONS, IF ANY.

5 (H) AN ADVISORY STATEMENT ALERTING CONSUMERS THAT THE PRICE
6 POSTED IS ONLY FOR THE STRENGTH AND QUANTITY OF THE LISTED DRUG
7 PRODUCT.

8 (3) AT LEAST ONCE A MONTH, THE DEPARTMENT SHALL OBTAIN FROM
9 THE PERSON THAT THE DEPARTMENT HAS CONTRACTED TO SERVE AS ITS
10 PHARMACY BENEFITS MANAGER FOR THIS STATE'S MEDICAL ASSISTANCE
11 PROGRAM THE USUAL AND CUSTOMARY PRICE AS REPORTED FOR THE MOST
12 COMMONLY PRESCRIBED DRUG PRODUCTS IDENTIFIED PURSUANT TO SUBSECTION
13 (2) (A), (B), AND (C) TO THAT PHARMACY BENEFITS MANAGER BY EACH
14 PHARMACY THAT FILLS OR REFILLS A PRESCRIPTION UNDER THIS STATE'S
15 MEDICAL ASSISTANCE PROGRAM. THE DEPARTMENT SHALL INCLUDE THIS
16 INFORMATION ON THE WEBSITE UNDER THIS SECTION. THIS SUBSECTION DOES
17 NOT REQUIRE A PHARMACY THAT FILLS OR REFILLS A PRESCRIPTION UNDER
18 THIS STATE'S MEDICAL ASSISTANCE PROGRAM TO PROVIDE ANY ADDITIONAL
19 INFORMATION THAN THAT CURRENTLY BEING REPORTED BY THE PHARMACY TO
20 THE PERSON THAT THE DEPARTMENT HAS CONTRACTED TO SERVE AS ITS
21 PHARMACY BENEFITS MANAGER FOR THIS STATE'S MEDICAL ASSISTANCE
22 PROGRAM.

23 (4) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A TOLL-FREE
24 TELEPHONE NUMBER THAT A PERSON MAY CALL FOR INFORMATION ON
25 PRESCRIPTION DRUG PROGRAMS AVAILABLE IN THIS STATE, INCLUDING, BUT
26 NOT LIMITED TO, FREE AND DISCOUNTED PRESCRIPTION DRUG PROGRAMS. THE
27 DEPARTMENT MAY UTILIZE AN EXISTING TOLL-FREE TELEPHONE LINE TO

1 SATISFY THIS REQUIREMENT.

2 (5) THE DEPARTMENT SHALL ESTABLISH A MECHANISM BY WHICH A
3 PHARMACY LISTED ON THE PRESCRIPTION DRUG WEBSITE MAY NOTIFY THE
4 DEPARTMENT OF AN INCORRECT USUAL AND CUSTOMARY PRICE FOR A DRUG
5 PRODUCT AVAILABLE AT THAT PHARMACY AND SUBMIT THE CORRECT USUAL AND
6 CUSTOMARY PRICE. THE MECHANISM SHALL ALLOW THE PHARMACY TO SUBMIT
7 THE CORRECT USUAL AND CUSTOMARY PRICE FOR A DRUG PRODUCT TO THE
8 DEPARTMENT IN A FORMAT PRESCRIBED BY THE DEPARTMENT VIA ELECTRONIC
9 MAIL, FACSIMILE, TOLL-FREE TELEPHONE NUMBER, OR OTHER METHOD OF
10 ELECTRONIC SUBMISSION. WITHIN 3 BUSINESS DAYS OF RECEIPT OF THE
11 SUBMISSION, THE DEPARTMENT SHALL VERIFY WHETHER THE INFORMATION
12 SUBMITTED IS ACCURATE AND, IF SO, SHALL UPDATE THE WEBSITE WITH THE
13 CORRECT USUAL AND CUSTOMARY PRICE FOR THE DRUG PRODUCT.

14 (6) BEGINNING JUNE 1, 2009, AND ANNUALLY EACH YEAR AFTER 2009,
15 THE DEPARTMENT SHALL PREPARE AND SUBMIT A REPORT THAT ASSESSES THE
16 ACCURACY OF THE USUAL AND CUSTOMARY PRICES POSTED ON THE WEBSITE AS
17 RECEIVED FROM THE PHARMACY BENEFITS MANAGER FOR THE STATE'S MEDICAL
18 ASSISTANCE PROGRAM AND FROM ANY OTHER PHARMACY BENEFITS MANAGER
19 THAT SUPPLIES INFORMATION TO THE DEPARTMENT. THE DEPARTMENT SHALL
20 INCLUDE IN THE REPORT THE NUMBER OF NOTIFICATIONS OF INCORRECT
21 USUAL AND CUSTOMARY PRICES RECEIVED FROM PHARMACIES, THE NUMBER OF
22 THOSE NOTIFICATIONS THAT WERE VERIFIED, AND THE NUMBER OF DRUG
23 PRODUCT PRICES THAT WERE CORRECTED ON THE WEBSITE. THE REPORT SHALL
24 BE SUBMITTED TO THE GOVERNOR, THE LEGISLATURE, AND REPRESENTATIVES
25 OF THE HOUSE AND SENATE FISCAL AGENCIES.

26 (7) AS USED IN THIS SECTION, "USUAL AND CUSTOMARY PRICE" MEANS
27 THAT PRICE THAT IS COMPARABLE TO WHAT A PHARMACY WOULD CHARGE A

1 CASH-PAYING CUSTOMER WITHOUT INSURANCE. USUAL AND CUSTOMARY PRICE
2 DOES NOT INCLUDE DISCOUNTS, SPECIAL PROMOTIONS, OR OTHER PROGRAMS
3 INITIATED TO REDUCE PRICES FOR PRODUCT COSTS AVAILABLE TO THE
4 GENERAL PUBLIC OR TO A SPECIAL POPULATION.