

2018 Enacted State Laws Affecting Pharmacy Benefit Managers (PBMs)

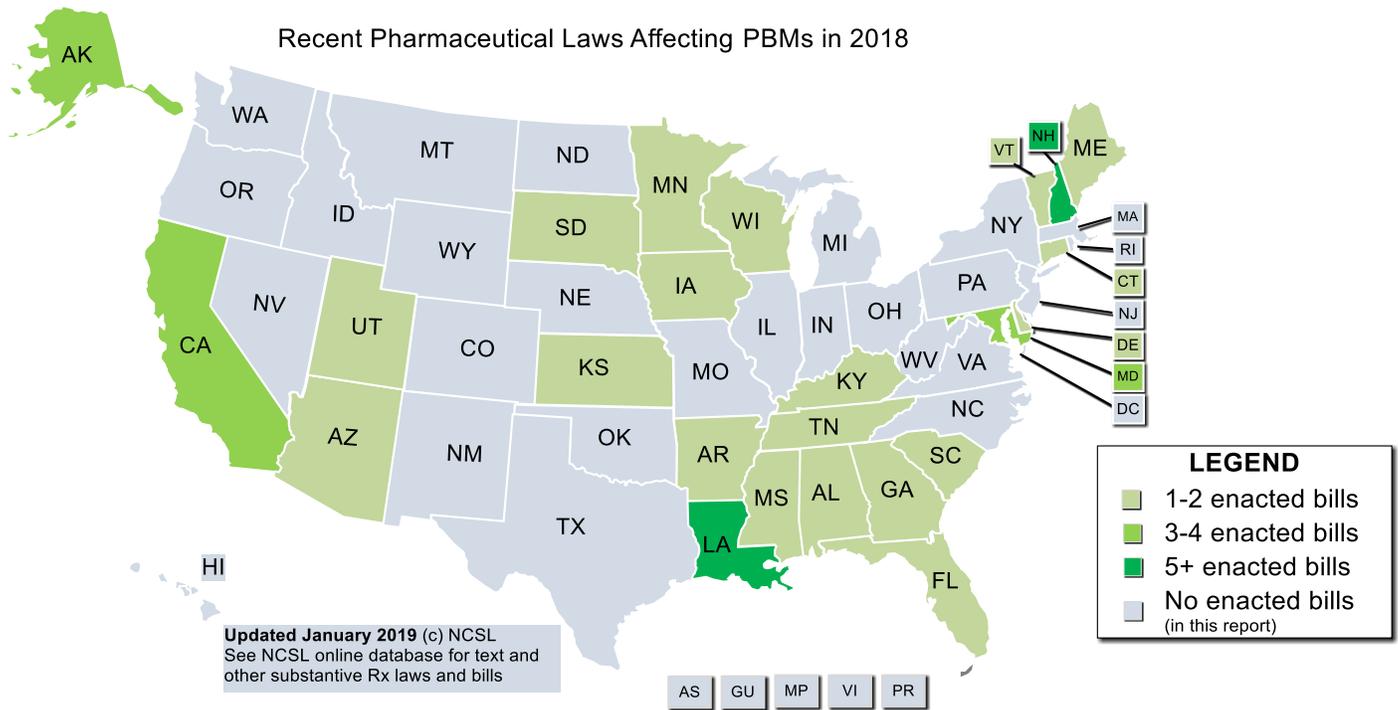
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- State legislatures passed over 30 laws banning the practice of “gag clauses” restricting pharmacists from discussing different drug pricing options in pharmacy benefit management (PBM) contracts with pharmacies.
- Multiple states enacted legislation either requiring PBMs to register with the state or acquire a license to work as a PBM.
- Many states have passed legislation prohibiting “clawback” practices, when there is a discrepancy in price between the cost of a drug and the co-pay and the PBM keeps the difference.
- State policymakers can use this guide to learn about recent state actions or inform future decisions.

Introduction

Over the past year, state legislators pursued new legislation that regulates the practices of PBMs: those who negotiate drug prices and rebates as middlemen between insurance providers and pharmacies. Because of legislative interest in a broad range of pharmaceutical pricing issues, states have enacted a diverse set of policy initiatives, including this selection of enacted legislation with at least 41 signed bills from 23 states. This search is based on the following topic filters in [the NCSL Statewide Prescription Drug Database](#): Cost Sharing and Deductibles, Pharmaceutical Pricing and Payment, Rx Medicaid Use and Cost and Pharmacy Benefit Managers.

Of the measures included in this report, some of the legislative themes involve regulating contractual “gag clauses” between PBMs and pharmacies, and requiring PBMs to either register with the state or obtain a license to operate within state boundaries. Please refer to NCSL’s separate report on this issue titled [“Prohibiting PBM ‘Gag Clauses’ that Restrict Pharmacists from Disclosing Price Options: Recent State Legislation 2016-2018”](#) for an in-depth explanation of what a gag clause is and what states enacted as well as filed bills that failed to prohibit gag clauses in recent years. The legislation contained in this report represents a wide variety of approaches in a diverse mix of states and is intended to give the reader a comprehensive overview of approaches taken by states over the last year that affect PBMs.



This report compiles enacted legislation excerpted from the NCSL [Prescription Drug Online Database](#). The full NCSL database of enacted legislation from 2015 to present details at least 169 enacted bills and resolutions from 44 states, which is not intended to be exhaustive of every possible bill. Entries to this report are listed alphabetically by state and chronologically by year for each state. A reference table of included topics listing which states have enacted relevant legislation is provided below. One bill may apply to multiple categories.

Enacted Legislation by Topic and Number of States

Prohibiting Gag Clauses, Price Transparency and Preventing Clawbacks: Prohibiting PBM contracts from barring pharmacists from advising patients on different payment methods or drug options when filling their prescription. Some of these laws also prevent the practice of clawbacks, where PBMs take back the amount a customer pays as a co-pay that is above the actual price of the drug.

18 States: [Alabama](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Delaware](#), [Florida](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Mississippi](#), [New Hampshire](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Vermont](#),

Requiring Registration or Licensing of PBMs: Determining the method, fees and guidelines for either licensing or registering PBMs through the state pharmacy board.

4 States: [Alaska](#) (registration), [Arkansas](#) (licensing), [Iowa](#) (wholesale distribution licensing), [Tennessee](#) (licensing).

Preventing Non-state Private PBM Licensing and Accreditation: Stipulating that the only entity with the authority to license or give accreditation to PBMs is the state board of pharmacy.

1 State: [New Hampshire](#).

Procedures and Guidelines for Pharmacy Auditing: Outlining methods and procedures for how pharmacies can be audited by the state to prevent fraud and increase pricing transparency.

3 States: [Alaska](#), [Georgia](#), [Utah](#).

Disclosing Drug Price Increases: Mandating that pharmacy benefit managers must inform government offices of large drug price increases and or give justifications for doing so.

4 States: [California](#), [Connecticut](#), [Kentucky](#), [Vermont](#).

Step Therapy/Prior Authorization: Step therapy, also called “fail first,” is when an insurance provider requires that certain drug treatments are prescribed before switching to a more expensive or non-generic drug treatment alternative. Prior authorization is requiring that a consumer must first obtain permission from a physician to access certain drugs through their insurance provider.

3 States: [Delaware](#), [Minnesota](#), [Vermont](#)

Topics beyond those covering Pharmacy Benefit Management are tracked and reported by NCSL [online](#). Those topics include:

- Biologics and Biosimilars
- Clinical Trials and Right to Try
- Compounding Pharmacy Regulation
- Insurance/Coverage - Rx Drugs
- Safety and Errors - Rx Drugs
- Specialty Pharmaceuticals
- Utilization Management - Rx Drugs
- Other Prescription Drug Measures

Bill Information	Summary
Alabama	
AL H 457 2018 Pharmacies and Pharmacists Status: Enacted - Act No. 2018-457 Date of Last Action:* 03/28/2018 - Enacted Author: Beech (D) Associated Bills: AL S 348 - Companion	Amends Sections 34-23-181, 34-23-184, 34-23-185, and 34-23-186 of the Code of Alabama 1975. Addresses auditing procedures for pharmacy records, provides auditing procedures for PBMs, limits recoupment due to overpayment for clerical and record-keeping errors by a pharmacy.
Alaska	
AK S 37 2018 Board of Pharmacy Inspection and Licensing Status: Enacted - Act No. 2018-66 Date of Last Action:* 07/24/2018 - Enacted Author: Giessel (R)	To fulfill its responsibilities, the board has the powers necessary for implementation and enforcement of this chapter, including the power to license and inspect the facilities of wholesale drug distributors, third-party logistics providers (PBMs), and outsourcing facilities located outside the state under AS 08.80.159.
AK H 240 2018 Pharmacy Benefits Managers Status: Enacted - Act No. 2018-100 Date of Last Action: 09/04/2018 - Enacted Author: Guttenberg (D)	Relates to the registration and duties of PBMs, including procedures, guidelines, and enforcement mechanisms for pharmacy audits, bans gag clauses related to the cost of multi-source generic drugs and insurance reimbursement procedures, authorizes a role for the director of the division of insurance affecting drug benefits.
Arizona	

<p>AZ H 2107 2018 Prescription Drug Pricing Patient Notification Act Status: Enacted - Act No. 133 Date of Last Action: 04/05/2018 - Enacted Author: Syms (R)</p>	<p>Relates to prescription drug costs: Provides that a PBM or other entity that administers prescription drug benefits 'may not prohibit by contract a pharmacy or pharmacist from informing the patient that the patient may be able to procure a prescription medication at a lower cost, including by paying the cash price.'" (no gag clauses)</p>
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<h2>Arkansas</h2>	
<p>AR H 1010 2018 Pharmacy Manager Benefits Status: Enacted - Act No. 1 Date of Last Action: 03/15/2018 - Enacted Author: Gray (D)</p>	<p>Creates the State Pharmacy Benefits Manager Licensure Act. Gag clauses prohibited: "A pharmacy or pharmacist may provide to an insured information regarding the insured's total cost for pharmacist services for a prescription drug. A pharmacy or pharmacist shall not be proscribed by a pharmacy benefits manager from discussing information regarding the total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if a more affordable alternative is available."</p>

<h2>California</h2>	
<p>CA S 17 2018 Health Care: Prescription Drug Costs Status: Enacted - Act No. 2017-603 Date of Last Action:* 10/09/2017 - Enacted Author: Hernandez (D)</p>	<p>Requires pharmaceutical manufacturers to submit to public and private purchasers (including state agencies, health insurers, and PBMs) 90-day advance notification of price increases for prescription drugs currently on the market, including detailed information regarding the reasons and justification for such increases, as well as justification of launch prices for new drugs. Requires health insurers that file rate information to report specified cost information regarding covered prescription drugs, including generic drugs, brand name drugs, and specialty drugs. Requires reporting the percentage of the insurance premium attributable to prescription drugs.</p>
<p>CA A 315 2018 Pharmacy Benefit Management Status: Enacted - Act No. 2018-905 Date of Last Action:* 09/29/2018 - Enacted Author: Wood (D)</p>	<p>Requires a pharmacy to inform a customer at the point of sale for a covered prescription drug whether the retail price is lower than the applicable cost sharing amount for the prescription drug, unless the pharmacy automatically charges the customer the lower price. Requires the pharmacy to submit a claim to a plan or insurer when a customer pays the retail price. Imposes additional requirements on health care service plans regarding contracted pharmacy providers and benefit managers.</p>
<p>CA S 1021 2018 Prescription Drugs Status: Enacted - Act No. 2018-787 Date of Last Action:* 09/26/2018 - Enacted Author: Wiener (D)</p>	<p>Prohibits a drug formulary maintained by a health insurer or a health care service plan from containing more than four tiers and permits a biologic with a therapeutic equivalent to be placed on a tier other than tier four, as specified. Requires a prescription drug benefit to provide that an enrollee or an insured is not required to pay more than the retail price for a prescription drug if a pharmacy's retail price is less than the applicable copayment or coinsurance amount.</p>

<p>CA A 2863 2018 Health Care Coverage: Prescriptions Status: Enacted - Act No. 2018-770 Date of Last Action:* 09/26/2018 - Enacted Author: Nazarian (D)</p>	<p>Limits the amount a health care service plan or health insurer may require an enrollee or insured to pay at the point of sale for a covered prescription to the lesser of the applicable cost sharing amount or the retail price. Provides that a payment rendered by an enrollee or insured constitutes the applicable cost sharing.</p>
<h2>Colorado</h2>	
<p>CO H 1284 2018 Disclosure of Prescription Costs at Pharmacies Status: Enacted - Act No. 181 Date of Last Action:* 04/30/2018 - Enacted Author: Buckner (D)</p>	<p>Concerns the cost of prescription drugs purchased at a pharmacy. Prohibits gag clauses in contracts between PBMs and pharmacists that prevent them from discussing other effective, alternative prescription drug options with customers.</p>

Connecticut

[CT H 5384](#)

2018

Prescription Drug Costs

Status: Enacted - Act No. 18-41

Date of Last Action:* 05/31/2018 - Enacted

Author: Mushinsky (D)

Requires manufacturers to disclose net drug cost after rebates and to inform the state Office of Health Strategy when a company has submitted a drug approval application to the U.S. Food and Drug Administration, requires disclosing price increase justifications to the Office, which must be posted on the state website. Requires the Office of Health Strategy to annually list the top 10 drugs whose wholesale acquisition cost has increased by 25 percent and that represent substantial state spending. Imposes additional disclosure and reporting requirements on pharmacy benefits managers, health carriers, pharmaceutical manufacturers, the Office of Health Strategy and the Insurance Department concerning prescription drug rebates and the cost of prescription drugs.

Delaware

[DE H 425](#)

2018

Permitted Prescription Drug Disclosures

Status: Enacted - Act No. 378

Date of Last Action:* 08/28/2018 - Enacted

Author: Bennett A (D)

Establishes that a contract between a pharmacy benefits manager and a pharmacy may not prohibit a pharmacy or pharmacist from providing an insured with information regarding the retail price of a prescription drug, the amount of the cost share for which the insured is responsible for a prescription drug.

[DE H 441](#)

2018

Pharmacy Benefits

Status: Enacted - Act No. 379

Date of Last Action:* 08/28/2018 - Enacted

Author: Carson (D)

Relates to PBM prior authorization of emergency prescriptions and prescriptions for chronic or long-term conditions.

Florida

[FL H 351](#)

2018

Pharmacy Benefits Managers

Status: Enacted - Act No. 2018-91

Date of Last Action:* 03/23/2018 - Enacted

Author: Santiago (R)

Associated Bills: FL S 1494

Relates to pharmacy benefits managers, prohibits a managed care plan from contracting with a pharmacy benefits manager to manage the prescription drug coverage provided under the plan unless certain requirements are met. Pharmacist "shall inform customers of a less expensive, generically equivalent drug product for her or his prescription and whether the cost-sharing obligation exceeds the retail price of the prescription in the absence of prescription drug coverage."

Georgia

[GA H 206](#)

2018

Clerical Errors by Providers of Medical Assistance

Status: Enacted - Act No. 68

Date of Last Action:* 05/01/2017 - Enacted

Author: Kelley (R)

Relates to medical assistance and amends requirements relating to certain audits conducted by the Department of Community Health. States that clerical or other errors do not constitute a basis to recoup payments made by providers of medical assistance and provides a 30-day correction period. Amends code relating to appropriations involved with state plans for medical assistance. Repeals conflicting laws.

Iowa	
IA S 2298 2018 Pharmacy Regulation Status: Enacted - Act No. 1141 Date of Last Action:* 05/16/2018 - Enacted Author: Human Resources Committee	Relates to the Board of Pharmacy composition and amends rules relating to the limited distributor license and the wholesale distribution of prescription drugs and devices, includes penalties.
Kansas	
KS S 351 2018 Pharmacy Patients Fair Practices Act Status: Enacted - Act No. 2018-23 Date of Last Action:* 03/29/2018 - Enacted Author: Public Health and Welfare Committee	Enacts the Kansas Pharmacy Patients Fair Practices Act, states that a pharmacy or pharmacist shall have the right to provide a covered person with information regarding the amount of cost share for a prescription drug, provides that co-payments applied by a health carrier for a prescription drug may not exceed the total submitted charges by the network pharmacy.
Kentucky	
KY S 5 2018 Medicaid Program Pharmacy Benefits Status: Enacted - Act No. 157 Date of Last Action:* 04/13/2018 - Enacted Author: Wise (R)	Requires the Department for Medicaid Services to directly administer all outpatient pharmacy Medicaid benefits, prohibits renewal or negotiation of new contracts to provide Medicaid managed care that allow administration of outpatient benefits by any entity but the Department for Medicaid Services, reduces costs of future Medicaid managed care contracts by costs of all outpatient pharmacy benefits as they existed on a specified date. Department for Medicaid Services may change reimbursement rates, PBMs must give Department 30 days notice of proposed changes over 5 percent.
KY H 463 2018 Pharmacy Benefits Status: Enacted - Act No. 144 Date of Last Action:* 04/10/2018 - Enacted Author: Meredith (R)	Defines cost sharing, prohibits an insurer, PBM or other administrator from requiring payment for prescription drugs more than certain amounts, prohibits an insurer, PBM, or other administrator from imposing a gag clause' or penalty on a pharmacist or pharmacy for complying as required. Any amount paid by the insured will be count toward any annual out-of-pocket maximums under their health benefit plan.
Louisiana	
LA S 108 2018 Medicaid Managed Care Status: Enacted - Act No. 482 Date of Last Action:* 05/25/2018 - Enacted Author: Johns (R)	Revises provisions relating to the Medicaid Managed Care Annual Report. Requires the Department of Health to submit certain data quarterly regarding the Medicaid expansion population and services. Amends composition of information in the medical loss ratio of each managed care organization. Requires the quarterly submission of certain data regarding PBMs.
LA S 130 2018 Medicaid Pharmacy Benefit Management Services	Establishes requirements for Medicaid contracts or subcontracts for PBM services. Includes provisions on fees, supplemental rebates, pricing, and contract termination.

<p>Status: Enacted - Act No. 483 Date of Last Action:* 05/25/2018 - Enacted Author: Mills (R)</p>	
<p>LA S 241 2018 Prescription Drug Cost Options Status: Enacted - Act No. 317 Date of Last Action:* 05/18/2018 - Enacted Author: Morrell (D)</p>	<p>Provides that "No PBM or other entity that administers prescription drug benefits in Louisiana shall prohibit by contract a pharmacy or pharmacist from informing a patient of all relevant options when acquiring their prescription medication, including but not limited to the cost and clinical efficacy of a more affordable alternative if one is available and the ability to pay cash if a cash payment for the same drug is less than an insurance copayment or deductible payment amount."</p>
<p>LA S 282 2018 Health Insurance Status: Enacted - Act No. 579 Date of Last Action:* 05/31/2018 - Enacted Author: Mills (R)</p>	<p>Provides definitions related to prescription drug pricing, including excess consumer cost burden, health insurance coverage, health insurance issuer and rebates. Requires issuers to disclose information relating to the prescription drug consumer cost burden. Forbids issuer from disclosing certain information regarding rebates due to trade rules.</p>
<p>LA S 283 2018 Health Insurance Status: Enacted - Act No. 371 Date of Last Action:* 05/20/2018 - Enacted Author: Mills (R)</p>	<p>Relates to PBMs. Provides for internet publication of formularies, transparency reporting, and reportable aggregate data. Provides for the duties of the commissioner of insurance relative thereto and provides for confidentiality.</p>
<p>LA H 436 2018 Coverage of Prescription Drugs Status: Enacted - Act No. 597 Date of Last Action:* 05/31/2018 - Enacted Author: Johnson (D)</p>	<p>Provides amendments for the regulation of PBMs and maximum allowable cost (MAC). PBMs are not allowed to prohibit pharmacies from disclosing costs and clinical alternatives to patients. Provides for reimbursements to non-affiliate pharmacies. Changes time frame for administrative appeals relating to MACs.</p>
<h2>Maine</h2>	
<p>ME S 10 2018 Clean Claims Submitted by Pharmacies Status: Enacted - Act No. 44 Date of Last Action:* 05/05/2017 - Enacted Author: Gratwick (D)</p>	<p>Prohibits a health insurance carrier or PBM from imposing a copayment or other charge that exceeds the cost of a prescription drug, prohibits a carrier or PBM from penalizing a pharmacy provider for providing information related to an enrollee's out-of-pocket cost or the clinical efficacy of a prescription drug or alternative medication (gag clause. If information related to an enrollee's out-of-pocket cost or the clinical efficacy of a prescription drug or alternative medication is available to a pharmacy provider, a carrier or PBM may not penalize a pharmacy provider for providing that information to an enrollee.</p>

Maryland	
MD S 576 2018 Pharmacy Benefits Managers Status: Enacted - Act No. 218 Date of Last Action:* 04/24/2018 - Enacted Author: Klausmeier (D) Associated Bills: MD H 736	Prevents a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from providing a beneficiary with certain information regarding a certain retail price or certain cost share for a prescription drug (gag clauses).
MD H 736 2018 Pharmacy Benefits Managers Status: Enacted - Act No. 217 Date of Last Action:* 04/24/2018 - Enacted Author: Bromwell (D) Associated Bills: MD S 576	Prevents a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from providing a beneficiary with information regarding the retail price of a prescription drug or the amount of the cost share for a prescription drug for which the beneficiary is responsible (gag clauses). Provides for the construction of the Act.
MD H 1349 2018 Pharmacy Benefits Managers Status: Enacted - Act No. 451 Date of Last Action:* 05/08/2018 - Enacted Author: Anderton (R) Associated Bills: MD S 1079	Revises regulation of PBMs. Authorizes the Maryland Insurance Commissioner to require additional information from a PBM in a certain application, requires a PBM to use updated pricing information in calculating certain payments and alters certain requirements of a pharmacy benefits manager. Adds additional clauses for the Commissioner concerning appeals, complaints, fees, and fines.
MD H 1558 2018 Prescription Drugs Status: Enacted - Act No. 461 Date of Last Action:* 05/08/2018 - Enacted Author: Morales (D)	Authorizes, with exceptions, a pharmacist to dispense a quantity of a prescription drug, up to a certain number of authorized dosage units or does not exceed a specified number of days. Provides that the Act does not apply to a certain controlled dangerous substance or certain prescriptions authorized for a patient.
Minnesota	
MN H 3196 2018 Health Insurance Status: Enacted - Act No. 162 Date of Last Action:* 05/19/2018 - Enacted Author: Fenton (R) Associated Bills: MN S 2897	Establishes a step therapy protocol and step therapy override process for prescription drug coverage.
Mississippi	
MS H 709 2018 Prescription Drugs Alternative Payment Options Act Status: Enacted - Act No. 331 Date of Last Action:* 03/08/2018 - Enacted Author: Mims (R)	Establishes the Prescription Drugs Consumer Affordable Alternative Payment Options Act and allows pharmacists to provide additional information about affordable alternative payment options.

New Hampshire	
<p>NH S 481 2018 Pharmacy Benefit Manager Study Committee Status: Enacted - Act No. 2018-143 Date of Last Action:* 05/30/2018 - Enacted Author: Soucy D (D)</p>	<p>Establishes a committee to study the impact of PBM manager operations on cost, administration and distribution of prescription drugs. Committee is to report findings by November of 2018.</p>
<p>NH S 581 2018 Compounding of Drugs Status: Enacted - Act No. 2018-263 Date of Last Action:* 06/12/2018 - Enacted Author: Sanborn A (R)</p>	<p>The bill amends the definition of compounding for the law regulating pharmacists and pharmacies. Also establishes a study committee to study rule-making authority for reconstituted drugs.</p>
<p>NH S 591 2018 Pharmacy Benefit Managers Status: Enacted - Act No. 2018-236 Date of Last Action:* 06/08/2018 - Enacted Author: Soucy D (D)</p>	<p>A PBM shall not require accreditation of providers other than requirements set forth by the New Hampshire pharmacy board or other state or federal entity. Prohibits a health carrier or PBM requiring accreditation, credentialing, or licensing of a provider other than by the New Hampshire pharmacy board or other state or federal regulatory body or must not exclude a provider from dispensing any new drug product for which the provider meets the manufacturer's dispensing guidelines, or otherwise discriminate against a provider.</p>
<p>NH H 1746 2018 Pharmacy Benefit Managers Status: Enacted - Act No. 2018-92 Date of Last Action:* 05/25/2018 - Enacted Author: Hennessey (R)</p>	<p>Prohibits PBM from requiring accreditation, credentialing, or licensing of providers other than by the New Hampshire Pharmacy Board or other state or federal entity. Repeals section relative to prohibiting PBMs to require providers to obtain certain accreditation.</p>
<p>NH H 1791 2018 Pharmacy Disclosures Status: Enacted - Act No. 2018-164 Date of Last Action:* 06/07/2018 - Enacted Author: Butler (D)</p>	<p>This enacted bill affects PBMs and gag clauses, biosimilar substitution, and drug labeling. It establishes that a contract between an insurance carrier or PBM and a contracted pharmacy shall not contain a provision prohibiting the pharmacist from providing price information to an insured. A pharmacist may substitute a biological product only if it has been licensed by the federal FDA as an interchangeable biological product for the prescribed biological product and notify the patient. The prescriber may indicate that substitution is not authorized by specifying on the prescription "medically necessary" on a paper prescription, or uses electronic indications when transmitted electronically, or gives instructions when transmitted orally that the biological product prescribed is medically necessary. Within 3 business days the dispensing pharmacist or the pharmacist's designee shall make an electronic entry of the specific product provided to the patient, including the manufacturer. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber.</p>

South Carolina

[SC H 5038](#) 2018

Pharmacy Benefit Manager Duties

Status: Enacted - Act No. 177

Date of Last Action:* 05/03/2018 - Enacted

Author: Atwater (R)

Associated Bills: SC H 5044; SC S 815

Establishes prohibited acts for a PBM. Provides that a PBM may not prohibit a pharmacist or pharmacy from providing an insured information on the amount of the insured's cost share for a prescription drug, from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy, charge or collect a copayment, hold a pharmacist or pharmacy responsible for certain fees, or retaliate for exercising rights.

South Dakota

[SD S 141](#) 2018

Pharmacy Benefits Managers

Status: Enacted - Act No. 281

Date of Last Action:* 02/27/2018 - Enacted

Author: Solano (R)

Establishes certain provisions regarding pharmacy benefits management. The act prohibits PBMs from "prohibiting a pharmacist or pharmacy for providing cost-sharing information on the amount that a covered individual may pay for a particular prescription drug by a pharmacist or pharmacy." It also prohibits PBMs from "penalizing a pharmacist or pharmacy for providing cost-sharing information on the amount that a covered individual may pay for a particular prescription drug by a pharmacist or pharmacy."

Tennessee

[TN H 901](#)

2018

Opioid Prescriptions for Enrollees

Status: Enacted - Act No. 864

Date of Last Action:* 05/03/2018 - Enacted

Author: Kumar (R)

Associated Bills: TN S 1227

Requires the Bureau of TennCare promulgate rules for safe coverage of opioid prescriptions by enrollees and for prior authorization requirements for opioid prescriptions for enrollees in certain circumstances. Requires exemptions from prior authorization for enrollees with certain medical conditions.

[TN S 1852](#)

2018

Pharmacy Benefits Manager

Status: Enacted - Act No. 838

Date of Last Action:* 04/27/2018 - Enacted

Author: Haile (R)

Associated Bills: TN H 1857

Relates to the licensing of pharmacy benefits managers. Requires any person operating in this state as a pharmacy benefits manager be certified by the department of commerce and insurance prior to operating. Sets licensing fees, renewal fees and violation fines.

[TN S 2362](#)

2018

Health Care

Status: Enacted - Act No. 1015

Date of Last Action:* 05/21/2018 - Enacted

Author: Crowe (R)

Revises provisions relating to hospital health care and gag clauses. Requires the Department of Health to include a determination of a hospital's compliance with reporting requirements in its annual inspections. A pharmacy or pharmacist has the right to provide an insured information regarding the amount of the insured's cost share for a prescription drug and shall not be penalized for doing such.

Utah	
UT H 55 2018 Veterans and Military Affairs Status: Enacted - Act No. 39 Date of Last Action:* 03/15/2018 - Enacted Author: Ray (R)	Creates regulations for the auditing of pharmacies.
UT S 208 2018 Amends the Pharmacy Practice Act Status: Enacted - Act No. 305 Date of Last Action:* 03/19/2018 - Enacted Author: Vickers (R)	Amends the Pharmacy Practice Act. Requires a pharmacy service entity that uses direct or indirect remuneration to report reimbursements to pharmacies or the pharmacy services administration organization. Prohibits a pharmacy benefits manager or coordinator from preventing a pharmacist from disclosing cost information to a patient, also known as gag clauses.
Vermont	
VT S 92 2018 Interchangeable Biological Products Status: Enacted - Act No. 193 Date of Last Action:* 05/30/2018 - Enacted Author: Lyons (D)	Revises provisions relating to prescription drug price transparency and cost containment. 1) Requires prior authorization to refill a prescription with a drug or biological product different than the originally filled prescription and requires electronic notifications after dispensing biological products. Requires a pharmacist to select the lowest priced drug or interchangeable biological product. 2) Expands the provisions of Vermont's 2016 Rx transparency law to require the Department of Vermont Health Access and health insurers with more than 5,000 covered lives to create lists of 10 prescription drugs for which the payer's net cost has increased by 50 percent or more over the past five years or 15+ percent annually. The Office of the Attorney General will identify 15 drugs for which the drugs' manufacturers must provide a justification for the price increase or increases. Each manufacturer must also provide a separate version of its justification that will be made public. 3) It prohibits PBMs from prohibiting or penalizing a pharmacy or pharmacist for providing information to an insured about a cost-sharing amount for a prescription drug, disclosing to an insured the cash price of a prescription drug, or selling a lower-cost drug to an insured if one is available. 4) Also creates a working group to examine prescription drug pricing throughout the supply chain, to identify opportunities for savings, and more price transparency, and to provide findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare.
Virginia	
VA S 933 2018 Prescription Drug Copayment Limits Status: Enacted - Act No. 602 Date of Last Action:* 03/30/2018 - Enacted Author: Saslaw (D) Associated Bills: VA H 1177	Relates to health insurance copayments and transparency for prescription drugs. Prohibits any clawback contract between a health carrier or its pharmacy benefits manager and a pharmacy or pharmacist from containing a provision that requires an enrollee to make a copayment for a covered prescription drug in an amount that exceeds the lesser of the applicable copayment for the prescription drug or the cash price.

<p>VA H 1177 2018 Pharmacists and Pharmacy Practices Status: Enacted - Act No. 245 Date of Last Action:* 03/09/2018 - Enacted Author: Pillion (R) Associated Bills: VA S 933 – Identical</p>	<p>Relates to pharmacy practices, permitted disclosures and gag clauses. A pharmacy benefits manager cannot prohibit a pharmacist or pharmacy from providing an enrollee individual information on the amount of the enrollee's cost share for the enrollee's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available.</p>
<h2>West Virginia</h2>	
<p>WV S 46 2018 Prescribed Drugs Cost Alternatives Information Status: Enacted - Act No. 123 Date of Last Action:* 03/21/2018 - Enacted Author: Cline (R)</p>	<p>Permits pharmacists to inform customers of lower cost alternative drugs and cost share to assist patients in making informed decisions. Prohibits PBMs from penalizing a pharmacy for discussing certain information with consumers (gag clauses). Prohibits PBMs from collecting cost shares exceeding the total submitted charges by a pharmacy. Sets limitations on PBMs when charging certain adjudicated claim fees to a pharmacy.</p>

Disclaimer: NCSL takes no position on state laws or legislation. This information is provided for general information and discussion. It is not intended as legal or medical advice.

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