



STATE REPRESENTATIVE
GARY HEBL
46TH ASSEMBLY DISTRICT

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**REP. HEBL INTRODUCES BILL TO ENSURE PHARMACIES
CAN DISCUSS CHEAPER DRUG OPTIONS**

(MADISON) – Gary Hebl (D-Sun Prairie) today began circulating a bill aimed at protecting Wisconsin consumers from unfair insurance practices. The bill, LRB-4526, will ensure pharmacists are able to notify insurance policy holders of cheaper alternatives to prescriptions, such as buying generic equivalents or paying cash for drugs instead of going through their insurance plan.

Currently, insurance companies can include provisions in contracts that prohibit pharmacies from letting policy holders know about cheaper alternatives for prescription drugs. LRB-4526 will prevent insurance companies from including these “pharmacist gag rules” in contracts with pharmacies in Wisconsin, paving the way for consumers to learn about ways to save on their prescriptions.

“Right now we have a situation where a drug might cost the pharmacy \$10 but, because of their insurance policy, a patient could be charged a \$40 copay,” Hebl said. “The pharmacy gets back the cost of the drug and the insurance company pockets the rest as profit. Patients might just pay the inflated price because they are not aware of cheaper options, and could even be kept in the dark about those options if insurance companies are prohibiting pharmacies from explaining them.”

Access to affordable health insurance has been in a state of flux since the beginning of the year, with the Trump administration and a Republican Congress continually trying to gut the Affordable Care Act. Hebl says his bill is a step toward ensuring that each Wisconsin citizen knows all of their health care and prescription drug options and is able to make the decision that is right for them.

“I want to make sure that health care costs remain as manageable as possible,” Hebl continued. “By ensuring that pharmacists can discuss the cheapest drug options with consumers, we would move a step closer to that goal.”

-END-



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4526/1
TJD:klm

2017 BILL

1 **AN ACT** *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.983 (1)
2 (intro.) and 609.83; and *to create* 632.863 of the statutes; **relating to:**
3 disclosures of prescription drug costs under health insurance policies and
4 plans.

Analysis by the Legislative Reference Bureau

This bill prohibits a health insurance policy, referred to in the statutes as a disability insurance policy, or a governmental self-insured health plan from including in a contract for pharmacy services, or allowing a pharmacy benefit manager or another entity to include in a contract for pharmacy services, a provision that prohibits or penalizes a pharmacist's disclosure to an individual purchasing a prescribed drug or device of the cost of a prescribed drug or device, a less expensive therapeutically equivalent drug or device, or a less expensive method of purchasing the drug or device.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 40.51 (8) of the statutes is amended to read:

BILL**SECTION 1**

1 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
2 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
3 and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855,
4 632.863, 632.867, 632.87 (3) to (6), 632.885, 632.89, 632.895 (5m) and (8) to (17), and
5 632.896.

6 **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.863, 632.867,
10 632.885, 632.89, and 632.895 (11) to (17).

11 **SECTION 3.** 66.0137 (4) of the statutes, as affected by 2017 Wisconsin Act 30,
12 is amended to read:

13 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
14 a village provides health care benefits under its home rule power, or if a town
15 provides health care benefits, to its officers and employees on a self-insured basis,
16 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
17 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.863,
18 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513
19 (4).

20 **SECTION 4.** 120.13 (2) (g) of the statutes, as affected by 2017 Wisconsin Act 30,
21 is amended to read:

22 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
23 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
24 632.798, 632.85, 632.853, 632.855, 632.863, 632.867, 632.87 (4) to (6), 632.885,
25 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

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1 **SECTION 5.** 185.983 (1) (intro.) of the statutes, as affected by 2017 Wisconsin
2 Act 30, is amended to read:

3 185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a
4 cooperative association organized under s. 185.981 shall be exempt from chs. 600 to
5 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44,
6 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93,
7 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798, 632.85,
8 632.853, 632.855, 632.863, 632.867, 632.87 (2) to (6), 632.885, 632.89, 632.895 (5) and
9 (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but
10 the sponsoring association shall:

11 **SECTION 6.** 609.83 of the statutes is amended to read:

12 **609.83 Coverage and disclosures of drugs and devices.** Limited service
13 health organizations, preferred provider plans, and defined network plans are
14 subject to ~~s.~~ ss. 632.853 and 632.863.

15 **SECTION 7.** 632.863 of the statutes is created to read:

16 **632.863 Disclosure of prescription drug charges. (1) DEFINITIONS.** In this
17 section:

18 (a) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

19 (b) “Pharmacist” has the meaning given in s. 450.01 (15).

20 (c) “Pharmacy benefit manager” has the meaning given in s. 632.865 (1) (c).

21 (d) “Prescribed drug or device” has the meaning given in s. 450.01 (18).

22 (e) “Prescription drug benefit” has the meaning given in s. 632.865 (1) (e).

23 (f) “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

24 **(2) ALLOWING DISCLOSURES.** No disability insurance policy or self-insured
25 health plan that provides a prescription drug benefit may include in a contract for

BILL**SECTION 7**

1 pharmacy services, or allow a pharmacy benefit manager or another entity to include
2 in a contract for pharmacy services, a provision that prohibits or penalizes, including
3 by increased utilization review, reduced reimbursement, or other financial
4 disincentives, a disclosure of any of the following by a pharmacist to an individual
5 purchasing a prescribed drug or device:

6 (a) The cost of the prescribed drug or device to the individual.

7 (b) The availability of any therapeutically equivalent alternative prescribed
8 drugs or devices or alternative methods of purchasing the prescribed drug or device,
9 including paying cash, that are less expensive to the individual.

10 **SECTION 8. Initial applicability.**

11 (1) (a) For policies and plans containing provisions inconsistent with this act,
12 this act first applies to policy or plan years beginning on January 1 of the year
13 following the year in which this paragraph takes effect, except as provided in
14 paragraph (b).

15 (b) For policies or plans that are affected by a collective bargaining agreement
16 containing provisions inconsistent with this act, this act first applies to policy or plan
17 years beginning on the effective date of this paragraph or on the day on which the
18 collective bargaining agreement is newly established, extended, modified, or
19 renewed, whichever is later.

20 **SECTION 9. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after
22 publication.

23 (END)