RECALLED

April 18, 2018

**H. 5038**

Introduced by Reps. Atwater, Bradley, Howard, Thayer, Gagnon, Huggins, Hewitt, McGinnis, Hayes, Willis, Spires, Ballentine, G.M. Smith, Sandifer, Norrell, Henderson, Toole, Erickson, Cobb‑Hunter, Ott, Ridgeway, McEachern, Douglas, Rutherford, Bernstein, W. Newton, Clary, Anthony, Wheeler, Anderson, Kirby, Alexander, Tallon and Elliott

S. Printed 4/18/18--S.

Read the first time March 27, 2018.

**A** **BILL**

TO AMEND SECTION 38‑71‑2130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF A PHARMACY BENEFIT MANAGER, SO AS TO ESTABLISH PROHIBITED ACTS FOR A PHARMACY BENEFIT MANAGER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 20, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑2150. A pharmacy benefit manager may not:

(1) prohibit a pharmacist or pharmacy from providing an insured information on the amount of the insured’s cost share for a prescription drug. A pharmacist or pharmacy may not be penalized by a pharmacy benefit manager for discussing such information to an insured or for selling a more affordable alternative to the insured if one is available;

(2) prohibit a pharmacist or pharmacy from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy;

(3) charge or collect a copayment from an insured that exceeds the total submitted charges by the network pharmacy;

(4) charge or hold a pharmacist or pharmacy responsible for a fee relating to the adjudication of a claim unless the fee is reported on the remittance advice of the adjudicated claim or is set out in contract between the pharmacy benefits manager and the pharmacy. This section does not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 of Medicare Part D; or

(5) penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this chapter.”

SECTION 2. This act takes effect upon approval of the Governor.

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