



2023 South Dakota Legislature

House Bill 1135

HOUSE COMMERCE AND ENERGY ENGROSSED

Introduced by: **Representative Weisgram**

1 **An Act to provide for transparency in the pricing of prescription drugs.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 58-29E-1 be AMENDED:**

4 **58-29E-1.** Terms used in this chapter mean:

5 (1) ~~"Covered entity," a nonprofit hospital or medical service corporation, health~~
 6 ~~insurer, health benefit plan, or health maintenance organization; a health program~~
 7 ~~administered by a department or the state in the capacity of provider of health~~
 8 ~~coverage; or an employer, labor union, or other group of persons organized in the~~
 9 ~~state that provides health coverage to covered individuals who are employed or~~
 10 ~~reside in the state. The term does not include a self-funded plan that is exempt~~
 11 ~~from state regulation pursuant to ERISA, a plan issued for coverage for federal~~
 12 ~~employees, or a health plan that provides coverage only for accidental injury,~~
 13 ~~specified disease, hospital indemnity, medicare supplement, disability income,~~
 14 ~~long term care, or other limited benefit health insurance policies and contracts;~~
 15 "Brand name," the same as set forth in § 36-11-2;

16 (2) "Covered individual," a member, participant, enrollee, contract holder, policy
 17 holder, or beneficiary of a ~~covered entity~~ third-party payor who is provided health
 18 coverage by the ~~covered entity~~ third-party payor. The term includes a dependent
 19 or other ~~person~~ individual provided health coverage through a policy, contract, or
 20 plan for a covered individual;

21 (3) "Director," ~~the director of the Division of Insurance;~~

22 (4) "Generic drug," a chemically equivalent copy of a brand-~~name~~ drug with an expired
 23 patent;

24 (5) "Labeler," an entity or person that receives prescription drugs from a manufacturer
 25 or wholesaler and repackages those drugs for later retail sale and that has a labeler

- 1 code from the federal Food and Drug Administration under 21 C.F.R. § 270.20
 2 (~~1999~~);
- 3 (4) "Health benefit plan," the same as set forth in § 58-17F-2;
- 4 (5) "Health carrier," the same as set forth in § 58-17F-1;
- 5 (6) "Interchangeable biological product," the same as set forth in § 36-11-2;
- 6 (7) "Maximum allowable cost," the maximum amount that a pharmacy may be
 7 reimbursed, as set by a pharmacy benefit manager or a third-party payor, for a
 8 brand name or a generic drug, an interchangeable biological product, or any other
 9 prescription drug and which may include:
- 10 (a) The average acquisition cost;
- 11 (b) The national average acquisition cost;
- 12 (c) The average manufacturer price;
- 13 (d) The average wholesale price;
- 14 (e) The brand effective rate;
- 15 (f) The generic effective rate;
- 16 (g) Discount indexing;
- 17 (h) Federal upper limits;
- 18 (i) The wholesale acquisition cost; and
- 19 (j) Any other term used by a pharmacy benefit manager or a health carrier to
 20 establish reimbursement rates for a pharmacy.
- 21 (8) "Maximum allowable cost list," a list of prescription drugs that:
- 22 (a) Includes the maximum allowable cost for each prescription drug; and
- 23 (b) Is used, directly or indirectly, by a pharmacy benefit manager;
- 24 (9) "Pharmaceutical manufacturer," any person engaged in the business of preparing,
 25 producing, converting, processing, packaging, labeling, or distributing a
 26 prescription drug, but not including a wholesale distributor or dispenser;
- 27 (10) "Pharmacist," the same as set forth in § 36-11-2;
- 28 (11) "Pharmacy,"
- 29 ~~(a) Is licensed by the State Board of Pharmacy, in accordance with chapter 36-~~
 30 ~~11;~~
- 31 ~~(b) Is located within or outside of this state; and~~
- 32 ~~(c) Provides for the dispensing of drugs and rendering of pharmaceutical care~~
 33 ~~to residents of this state the same as set forth in § 36-11-2;~~
- 34 ~~(6)~~(12) "Pharmacy benefits benefit management," the procurement of prescription
 35 drugs at a negotiated rate for dispensation within this state to covered individuals,

1 the administration or management of prescription drug benefits provided by a
 2 ~~covered entity third-party payor~~ for the benefit of covered individuals, or any of
 3 the following services provided with regard to the administration of ~~the following~~
 4 pharmacy benefits:

- 5 (a) Mail service pharmacy;
- 6 (b) Claims processing, retail network management, and payment of claims to
 7 pharmacies for prescription drugs dispensed to covered individuals;
- 8 (c) Clinical formulary development and management services;
- 9 (d) Rebate contracting and administration;
- 10 (e) Certain patient compliance, therapeutic intervention, and generic
 11 substitution programs; and
- 12 (f) Disease management programs involving prescription drug utilization;

13 ~~(7)~~(13) "Pharmacy benefit management fee," a fee that covers the cost of providing
 14 pharmacy benefit management, but does not exceed the value of the service
 15 performed by the pharmacy benefit manager;

16 (14) "Pharmacy benefits benefit manager," an entity a person that performs pharmacy
 17 benefits benefit management. The term, pursuant to a contract or other
 18 relationship with a third-party payor and includes a:

19 (a) A person or entity acting for a pharmacy benefits manager in a contractual
 20 or employment relationship in the performance of for a pharmacy benefit
 21 manager while providing pharmacy benefits benefit management for a
 22 covered entity third party payor; and includes mail

23 (b) A mail service pharmacy. The term does not include a health carrier licensed
 24 pursuant to Title 58 when the health carrier or its subsidiary is providing
 25 pharmacy benefits management to its own insureds; or a public self-funded
 26 pool or a private single employer self-funded plan that provides such
 27 benefits or services directly to its beneficiaries;

28 ~~(8)~~(15) "Pharmacy benefit manager affiliate," a pharmacy that, or a pharmacist who,
 29 directly or indirectly, through one or more intermediaries, owns or controls, is
 30 owned and controlled by, or is under common ownership or control of, a pharmacy
 31 benefit manager;

32 (16) (a) ~~The amount charged or claimed by the pharmacy benefit manager in a format~~
 33 ~~that allows the division to identify all instances of spread pricing; and~~

34 (b) ~~Information regarding shared ownership interest, by any person defined in~~
 35 ~~this section;~~

- 1 "Pharmacy network," pharmacies that have contracted with a pharmacy benefit
2 manager to dispense or sell prescription drugs to covered individuals under a health
3 benefit plan for which the prescription drug benefit is managed by a pharmacy
4 benefit manager;
- 5 (17) "Prescription drug," a drug classified by the United States Food and Drug
6 Administration as requiring a prescription by a health care practitioner, prior to
7 being administered or dispensed to a patient, and including interchangeable
8 biological products, brand names, and generic drugs;
- 9 (18) "Prescription drug benefit," a health benefit plan providing third-party payment or
10 prepayment for prescription drugs;
- 11 (19) "Prescription drug order," the same as set forth in § 36-11-2;
- 12 (20) "Proprietary information," information on pricing, costs, revenue, taxes, market
13 share, negotiating strategies, customers, and personnel held by a private entities
14 entity and used for that private entity's business purposes;
- 15 ~~(9)~~(21) "Rebate," a discount or other negotiated price concession that is paid directly
16 or indirectly to a pharmacy benefit manager by a pharmaceutical manufacturer or
17 by an entity in the prescription drug supply chain, other than a covered individual,
18 and which is:
- 19 (a) Based on a pharmaceutical manufacturer's list price for a prescription drug;
20 (b) Based on utilization;
- 21 (c) Designed to maintain, for the pharmacy benefit manager, a net price for a
22 prescription drug, during a specified period of time, in the event the
23 pharmaceutical manufacturer's list price increases; or
- 24 (d) Based on estimates regarding the quantity of a prescribed drug that will be
25 dispensed by a pharmacy to covered individuals;
- 26 (22) "Spread pricing," an amount charged or claimed by a pharmacy benefit manager
27 that is in excess of the ingredient cost for a dispensed prescription drug, plus a
28 dispensing fee paid directly or indirectly to a pharmacy, pharmacist, or other
29 provider, on behalf of the third-party payor, less a pharmacy benefit management
30 fee;
- 31 (23) "Third-party payor," any entity, other than a covered individual, a covered
32 individual's representative, or a healthcare provider, which is responsible for any
33 amount of reimbursement for a prescription drug benefit, provided the term
34 includes a health carrier and a health benefit plan;

1 ~~(24) "Trade secret," information, including a formula, pattern, compilation, program,~~
 2 ~~device, method, technique, or process, that:~~

3 ~~(a) Derives independent economic value, actual or potential, from not being~~
 4 ~~generally known to, and not being readily ascertainable by proper means~~
 5 ~~by, other persons who can obtain economic value from its disclosure or use;~~
 6 ~~and~~

7 ~~(b) Is the subject of efforts that are reasonable under the circumstances to~~
 8 ~~maintain its secrecy the same as set forth in § 37-29-1;~~

9 (25) "Unaffiliated pharmacy," a dispensing pharmacy that is not:

10 (a) Owned, in whole or in part, by a pharmacy benefit manager;

11 (b) A subsidiary of a pharmacy benefit manager; or

12 (c) An affiliate of a pharmacy benefit manager; and

13 (26) "Wholesale distributor,"

14 ~~(a) A manufacturer;~~

15 ~~(b) A manufacturer's co-licensed partner;~~

16 ~~(c) A repackager; or~~

17 ~~(d) A third party logistics provider the same as set forth in § 36-11A-25.~~

18 **Section 2. That § 58-29E-2 be AMENDED:**

19 **58-29E-2.** ~~No~~ A ~~person or entity may perform or not~~ act as a pharmacy benefits
 20 benefit manager in this state without a ~~valid~~ license to operate as a third party
 21 administrator pursuant to chapter 58-29D. Sections 58-29D-26, 58-29D-27, and 58-29D-
 22 29 do not apply to pharmacy benefits managers.

23 **Section 3. That § 58-29E-3 be AMENDED:**

24 **58-29E-3.** Each pharmacy ~~benefits~~ benefit manager shall perform its duties
 25 ~~exercising in~~ good faith and with fair dealing toward the ~~covered entity~~ third-party payor.

26 **Section 4. That § 58-29E-4 be AMENDED:**

27 **58-29E-4.** A ~~covered entity~~ third-party payor may request that ~~any~~ a pharmacy
 28 ~~benefits~~ benefit manager, with which it has a pharmacy ~~benefits~~ benefit management
 29 services contract, disclose to the ~~covered entity~~ third-party payor the amount of all rebate
 30 revenues and the nature, type, and amounts of all other revenues that the pharmacy

1 ~~benefits-benefit~~ manager receives from each pharmaceutical manufacturer ~~or labeler~~ with
 2 ~~whom~~ which the pharmacy ~~benefits-benefit~~ manager has a contract. ~~The~~

3 Annually, at the time of contract renewal, the pharmacy ~~benefits-benefit~~ manager
 4 shall disclose in writing:

- 5 (1) The aggregate amount, and for a list of drugs to be specified in the contract, the
 6 specific amount, of all rebates and other retrospective utilization discounts that are
 7 received by the pharmacy ~~benefits-benefit~~ manager, directly or indirectly, from
 8 each pharmaceutical manufacturer ~~or labeler~~ that, and which are earned in
 9 connection with the dispensing of prescription drugs to covered individuals of the
 10 health benefit plans issued by the ~~covered entity~~ third-party payor or for which the
 11 ~~covered entity~~ third-party payor is the designated administrator;
- 12 (2) The nature, type, and amount of all other revenue received by the pharmacy
 13 ~~benefits-benefit~~ manager, directly or indirectly, from each pharmaceutical
 14 manufacturer ~~or labeler~~, for any other products or services, provided to the
 15 pharmaceutical manufacturer ~~or labeler~~ by the pharmacy ~~benefits-benefit~~ manager,
 16 with respect to programs that the ~~covered entity~~ third-party payor offers or
 17 provides to its ~~enrollees~~ covered individuals; and
- 18 (3) Any prescription drug utilization information requested by the ~~covered entity~~ third-
 19 party payor ~~and~~ relating to covered individuals.

20 A pharmacy ~~benefits-benefit~~ manager shall, within thirty days, provide ~~such the~~
 21 information requested by the ~~covered entity~~ for such disclosure ~~within thirty days of~~
 22 receipt of the request in accordance with this section.

23 If requested, the information ~~shall~~ must be provided no less than once each year.

24 The contract entered into between the pharmacy ~~benefits-benefit~~ manager and the
 25 ~~covered entity~~ shall ~~third-party payor~~ must set forth any fees to be charged for drug
 26 utilization reports requested by the ~~covered entity~~ third-party payor.

27 **Section 5. That § 58-29E-5 be AMENDED:**

28 **58-29E-5.** A pharmacy ~~benefits-benefit~~ manager, unless authorized pursuant to
 29 the terms of its contract with a ~~covered entity~~ third-party payor, may not contact any
 30 covered individual, without the express written permission of the ~~covered entity~~ third-party
 31 payor.

32 **Section 6. That § 58-29E-6 be AMENDED:**

1 **58-29E-6.** Except for utilization information, a ~~covered entity~~third-party payor
2 shall maintain ~~any~~ information disclosed in response to a request ~~pursuant to~~ under § 58-
3 29E-4 as confidential and proprietary information, and may not use ~~such that~~ information
4 for any other purpose or disclose ~~such that~~ information to any other person, except as
5 provided in this chapter or in the pharmacy ~~benefits~~benefit management services contract
6 between the parties.

7 ~~Any covered entity who~~A third-party payor that discloses information, in violation
8 of this section, is subject to an action for injunctive relief and is liable for any damages
9 ~~which that~~ are the direct and proximate result of ~~such the~~ disclosure.

10 Nothing in this section prohibits a ~~covered entity~~third-party payor from disclosing
11 confidential or proprietary information to the director, upon request. ~~Any such~~
12 ~~information~~Information obtained by the director in accordance with this section is
13 confidential and privileged, and is not open to public inspection or disclosure.

14 **Section 7. That § 58-29E-7 be AMENDED:**

15 **58-29E-7.** ~~The covered entity may have the pharmacy benefits manager's books~~
16 ~~and records related to the rebates or other information described in subdivisions 58-29E-~~
17 ~~4(1), (2), and (3), to the extent the information relates directly or indirectly to such~~
18 ~~covered entity's contract, audited in accordance with the terms of the pharmacy benefits~~
19 ~~management services contract between the parties. However, if the parties have not~~
20 ~~expressly provided for audit rights and the pharmacy benefits manager has advised the~~
21 ~~covered entity that other reasonable options are available and subject to negotiation, the~~
22 ~~covered entity may have such books and records audited as follows:~~

23 ~~(1) Such audits may be conducted no more frequently than once in each~~
24 ~~twelve-month period upon not less than thirty business days' written notice to the~~
25 ~~pharmacy benefits manager;~~

26 ~~(2) The covered entity may select an independent firm to conduct such audit, and~~
27 ~~such independent firm shall sign a confidentiality agreement with the covered entity and~~
28 ~~the pharmacy benefits manager ensuring that all information obtained during such audit~~
29 ~~will be treated as confidential. The firm may not use, disclose, or otherwise reveal any~~
30 ~~such information in any manner or form to any person or entity except as otherwise~~
31 ~~permitted under the confidentiality agreement. The covered entity shall treat all~~
32 ~~information obtained as a result of the audit as confidential, and may not use or disclose~~
33 ~~such information except as may be otherwise permitted under the terms of the contract~~

1 ~~between the covered entity and the pharmacy benefits manager or if ordered by a court~~
2 ~~of competent jurisdiction for good cause shown;~~

3 ~~(3) Any such audit shall be conducted at the pharmacy benefits manager's office~~
4 ~~where such records are located, during normal business hours, without undue interference~~
5 ~~with the pharmacy benefits manager's business activities, and in accordance with~~
6 ~~reasonable audit procedures.~~

7 A third-party payor that has contracted with a licensed pharmacy benefit manager
8 may audit the pharmacy benefit manager once each calendar year. The audit authorized
9 by this section is in addition to any other statutory or contractual audit rights. As part of
10 the audit, a third-party payor may request:

11 (1) All reimbursements paid to retail pharmacies, on a claim level, for all customers
12 of the pharmacy benefit manager in this state, including ancillary charges, claw
13 backs, dispensing fees, drug-specific reimbursements, other fees, rebates, and
14 reimbursement adjustments;

15 (2) Differences in reimbursement amounts paid to affiliated and unaffiliated
16 pharmacies, including differences in dispensing fees and reimbursed ingredient
17 costs;

18 (3) Historical claims data, including:

19 (a) Acquisition costs;

20 (b) Administrative fees associated with claims;

21 (c) Amounts paid by a covered individual;

22 (d) Amounts paid by a third-party payor;

23 (e) Channels, whether mail or retail;

24 (f) Dispensing fees;

25 (g) Formulary tiers;

26 (h) Ingredient costs;

27 (i) Ingredient quantity;

28 (j) Sales tax;

29 (k) Supply availability by the number of days; and

30 (l) Usual and customary prices; and

31 (4) Aggregate rebate amounts, received by calendar quarter, directly or indirectly from
32 manufacturers, including rebates from other entities affiliated with or related to
33 the pharmacy benefit manager, if those entities negotiate or contract with
34 manufacturers.

1 A pharmacy benefit manager shall, within thirty days, provide the information
 2 requested in accordance with this section, together with a certification, signed by the chief
 3 executive officer or the chief financial officer of the pharmacy benefit manager, attesting
 4 to the accuracy and completeness of the information.

5 **Section 8. That chapter 58-29E be amended with a NEW SECTION:**

6 Except as provided in chapter 58-17K, and in accordance with the audit provisions
 7 in § 58-29E-7, a third-party payor that has contracted with a licensed pharmacy benefit
 8 manager may not publish, or directly or indirectly disclose:

- 9 (1) Any information that reveals the identity of a specific third-party payor or
 10 manufacturer;
 11 (2) Prices charged for a specific drug or class of drugs;
 12 (3) The amount of any rebates provided for a specific drug or class of drugs; or
 13 (4) Any information that has the potential to compromise the financial, competitive, or
 14 proprietary nature of the pharmacy benefit manager's business.

15 The information referenced in § 58-29E-7 is protected from disclosure as
 16 confidential and proprietary. The information is privileged and not open to public
 17 inspection or disclosure.

18 A third-party payor that has contracted with a licensed pharmacy benefit manager
 19 shall impose the confidentiality protections set forth in § 58-29E-7 on any vendor or third
 20 party that may receive or have access to the information.

21 **Section 9. That § 58-29E-8 be AMENDED:**

22 ~~58-29E-8. With regard to the dispensation of a substitute prescription drug for a~~
 23 ~~prescribed drug to a covered individual, when the pharmacy benefits manager requests a~~
 24 ~~substitution, the following provisions apply:~~

25 ~~(1) The~~A pharmacy benefit manager may request the substitution of that
 26 ~~a lower-priced generic and therapeutically equivalent~~ prescription drug be dispensed to a
 27 ~~covered individual, as a substitute for a higher-priced~~ prescribed prescription drug;

28 ~~(2) With regard to substitutions in which,~~

29 If the substitute prescription drug's net cost is more higher for the covered
 30 individual or the covered entity third-party payor than the originally prescribed drug, the
 31 substitution must may be made only for medical reasons that benefit the covered
 32 individual.

1 If a substitution is being requested pursuant to this ~~subdivision~~section, the
2 pharmacy ~~benefits~~benefit manager shall ~~must~~ obtain the approval of the prescribing
3 health professional.

4 Nothing in this section permits the substitution of an equivalent drug product
5 contrary to § 36-11-46.2.

6 **Section 10. That § 58-29E-8.1 be AMENDED:**

7 **58-29E-8.1.** A pharmacy ~~benefits~~benefit manager may neither prohibit a
8 pharmacist or pharmacy from, nor penalize a pharmacist or pharmacy for ~~providing cost-~~
9 ~~sharing information on the amount a covered individual may pay for a particular,~~ informing
10 a covered individual about:

- 11 (1) The cost of a prescription drug;
12 (2) The amount of reimbursement that the pharmacy will receive for dispensing the
13 prescription drug;
14 (3) The cost and clinical efficacy of a more affordable alternative prescription drug, if
15 one is available; and
16 (4) Any differential between the amount a covered individual would pay under the
17 covered individual's prescription drug benefit and a lower price the covered
18 individual would pay for the prescription drug, if the covered individual obtained
19 the prescription drug without making a claim for benefits on the covered
20 individual's prescription drug benefit.

21 **Section 11. That § 58-29E-10 be AMENDED:**

22 **58-29E-10.** ~~Any covered entity~~A third-party payor may bring a civil action to
23 enforce ~~the provisions of this chapter or to seek civil damages for the a~~ violation of its
24 ~~provisions~~this chapter.

25 **Section 12. That § 58-29E-12 be AMENDED:**

26 **58-29E-12.** ~~No~~A pharmacy benefit manager shall ~~may not~~ contractually require
27 a pharmacy, ~~who~~ that is a participating provider in a health benefit plan provided by a
28 ~~covered entity, to charge or collect~~ third-party payor, from charging a covered individual
29 or collecting from an insured a covered individual a cost share for a prescription drug or
30 pharmacy service that exceeds the amount retained by the pharmacist or pharmacy from
31 all payment sources, ~~for the filling of the prescription or providing the pharmacy service.~~

1 **Section 13. That § 58-29E-13 be AMENDED:**

2 **58-29E-13.** ~~No~~ A pharmacy benefit manager ~~contracting with a covered entity~~
 3 ~~shall~~ may not, directly or indirectly, retroactively adjust a claim for reimbursement
 4 submitted by a pharmacy for a prescription drug, ~~unless the adjustment is a result of~~
 5 ~~either of the following:~~

- 6 (1) ~~A~~ The adjustment is necessitated by a pharmacy audit conducted in accordance
 7 with chapter 58-29F; ~~or~~
 8 (2) ~~A~~ The adjustment is necessitated by a technical billing error;
 9 (3) The original claim was found to have been fraudulently submitted; or
 10 (4) The claim submission was a duplicate for which the pharmacy had already received
 11 payment.

12 **Section 14. That chapter 58-29E be amended with a NEW SECTION:**

13 A pharmacy benefit manager may not assess, charge, or collect, from a pharmacy
 14 or pharmacist, any remuneration or fee, including:

- 15 (1) An accreditation fee;
 16 (2) A brand effective rate fee;
 17 (3) A claim processing fee;
 18 (4) A credentialing fee;
 19 (5) A dispensing fee;
 20 (6) An effective rate fee;
 21 (7) A generic effective rate fee;
 22 (8) A pharmacy network participation fee; and
 23 (9) A performance-based fee.

24 **Section 15. That chapter 58-29E be amended with a NEW SECTION:**

25 Prior to placing a prescription drug on a maximum allowable cost list, a pharmacy
 26 benefit manager shall ensure that the prescription drug is:

- 27 (1) Listed as therapeutically and pharmaceutically equivalent in the latest edition of,
 28 or any supplement to, the Food and Drug Administration's publication entitled
 29 Approved Drug Products with Therapeutic Equivalence Evaluations, as adopted by
 30 the State Board of Pharmacy, in rules promulgated pursuant to chapter 1-26;
 31 (2) Not obsolete or temporarily unavailable; and

1 (3) Available for purchase, without limitation, by every pharmacy in this state, from a
2 national or regional wholesale distributor licensed in this state.

3 **Section 16. That chapter 58-29E be amended with a NEW SECTION:**

4 A pharmacy benefit manager shall:

5 (1) Provide each pharmacy in a pharmacy network with reasonable access to each
6 maximum allowable cost list to which the pharmacy is subject;

7 (2) Update a maximum allowable cost list, within seven calendar days from the date
8 of any increase, at or above ten percent, in the price charged for a prescription
9 drug on the list by one or more wholesale distributors doing business in this state;

10 (3) Update the maximum allowable cost list, within seven calendar days from the date
11 of any change in the methodology, or any change in the value of a variable applied
12 in the methodology, on which the maximum allowable cost list is based; and

13 (4) Provide a process under which each pharmacy in a pharmacy network may receive
14 prompt notice of any change in a maximum allowable cost list to which the
15 pharmacy is subject.

16 **Section 17. That chapter 58-29E be amended with a NEW SECTION:**

17 A pharmacy benefit manager may not reimburse any pharmacy located in this state
18 an amount that is less than that which the pharmacy benefit manager reimburses a
19 pharmacy benefit manager affiliate for dispensing the same prescription drug as that
20 dispensed by the pharmacy.

21 The reimbursement amount must be calculated on a per unit basis, using the same
22 generic product identifier or generic code number.

23 **Section 18. That chapter 58-29E be amended with a NEW SECTION:**

24 A pharmacy benefit manager licensed under this chapter shall, at the request of the
25 Division of Insurance, provide:

26 (1) The amount charged or claimed by the pharmacy benefit manager, in a format that
27 allows the division to identify all instances of spread pricing; and

28 (2) Information regarding a shared ownership interest by any person defined in § 58-
29 29E-1.

30 **Section 19. That chapter 58-29E be amended with a NEW SECTION:**

1 In addition to any grounds set forth in § 58-29D-31, the director may deny a
2 pharmacy benefit manager's application for an initial or a renewed license, and may
3 suspend or revoke a pharmacy benefit manager's license, if the director determines that
4 the pharmacy benefit manager, or an applicant for a license, failed to provide information
5 as required by this chapter.

6 **Section 20. That § 58-29E-11 be REPEALED:**

7 ~~The provisions of this chapter apply only to pharmacy benefits management~~
8 ~~services contracts entered into or renewed after June 30, 2004.~~