

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 493

AMENDMENT NO. A2
(to be filled in by
Principal Clerk)

S493-ATK-141 [v.7]

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Comm. Sub. [NO]
Amends Title [NO]
Fifth Edition

Date _____, 2014

Representative Avila

1 moves to amend the bill on page 9, line 25, through page 11, line 8, by rewriting the lines to
2 read:

3
4 **"PHARMACY BENEFITS MANAGEMENT REGULATION**

5 **SECTION 3.(a)** Chapter 58 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 56A.

8 "Pharmacy Benefits Management.

9 **"§ 58-56A-1. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Health benefit plan. – As defined in G.S. 58-50-110(11). This definition
12 specifically excludes the State Health Plan for Teachers and State
13 Employees.
- 14 (2) Insurer. – Any entity that provides or offers a health benefit plan.
- 15 (3) Maximum allowable cost price. – The maximum per unit reimbursement for
16 multiple source prescription drugs, medical products, or devices.
- 17 (4) Pharmacy. – A pharmacy registered with the North Carolina Board of
18 Pharmacy.
- 19 (5) Pharmacy benefits manager. – An entity who contracts with a pharmacy on
20 behalf of an insurer or third-party administrator to administer or manage
21 prescription drug benefits.
- 22 (6) Third-party administrator. – As defined in G.S. 58-56-2.

23 **"§ 58-56A-3. Maximum allowable cost price.**

24 (a) In order to place a prescription drug on the maximum allowable cost price list, the
25 drug must be available for purchase by pharmacies in North Carolina from national or regional
26 wholesalers, must not be obsolete, and must meet one of the following conditions:

- 27 (1) The drug is listed as "A" or "B" rated in the most recent version of the
28 United States Food and Drug Administration's Approved Drug Products with
29 Therapeutic Equivalence Evaluations, also known as the Orange Book.
- 30 (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally
31 recognized reference.



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1 (b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost
2 price for a prescription drug to remain consistent with changes in the national marketplace for
3 prescription drugs. A review of the maximum allowable cost prices for removal or modification
4 shall be completed by the pharmacy benefits manager at least once every seven business days,
5 and any removal or modification shall occur within seven business days of the review. A
6 pharmacy benefits manager shall provide a means by which the contracted pharmacies may
7 promptly review current prices in an electronic, print, or telephonic format within one business
8 day of the removal or modification."

9 **SECTION 3.(b)** The Department of Insurance, in collaboration with the
10 Department of Commerce and the North Carolina Board of Pharmacy, shall study the issue of
11 pharmacy benefits management company regulation. Specifically, the study shall include: (i)
12 frequency of disclosure of and methodology for calculating maximum allowable cost prices by
13 the pharmacy benefits management companies; (ii) appeals procedures for pharmacies relating
14 to maximum allowable cost pricing; (iii) consumer protections and the disclosure of consumer
15 health information by pharmacy benefits managers; (iv) regulation of the various forms of
16 incentives offered to a consumer by pharmacy benefits managers and its effects on choice of
17 pharmacy; and (v) any further industry regulation deemed necessary to study. The Department
18 of Insurance shall report the collective findings and recommendations, including any proposed
19 legislation, to the 2015 General Assembly on or before January 20, 2015.

20 **SECTION 3.(c)** Section 3(a) of this section becomes effective January 1, 2015, and
21 applies to contracts entered into, renewed, or amended on or after that date.
22

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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House Principal Clerk's Office**