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**Health Care & Wellness Committee**

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**HB 2303**

**Brief Description:** Regulating the practices of pharmacy benefits managers.

**Sponsors:** Representatives Pearson, Green and Appleton.

**Brief Summary of Bill**

- Establishes practice standards for pharmacy benefits managers in their relations with health plans, health carriers, state-purchased health care programs, and other entities providing health coverage, including standards regarding drug substitutions and disclosures of financial arrangements with drug manufacturers and labelers.

**Hearing Date:** 1/25/12

**Staff:** Chris Blake (786-7392).

**Background:**

Pharmacy benefits managers acquire prescription drugs for public and private entities and perform administrative services related to the administration of pharmacy benefits. These services may include mail order pharmacy, claims processing, payment of claims, formulary development, rebate contracting, and disease management activities. They act as an intermediary between the entities they contract with and pharmaceutical manufacturers to administer the drug benefit portion of a health plan.

**Summary of Bill:**

"Pharmacy benefits managers" are defined as organizations that perform specific duties on behalf of covered entities, including obtaining prescription drugs at a negotiated rate; administering prescription drug benefits; or conducting other specified pharmacy benefit services such as mail order pharmacy, claims processing, formulary development, rebate contracting, patient compliance, disease management. "Covered entities" include health plans, health carriers, state-

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purchased health care programs, and employers and unions that provide health coverage to beneficiaries.

Pharmacy benefits managers are required to act in good faith, abstain from deception, and practice honesty and equity in all pharmacy benefits management matters. They must comply with several requirements in their relationships with covered entities. These requirements include:

- notifying the covered entity of any conflict of interest;
- providing, upon request of a covered entity, financial and utilization information related to services provided to that covered entity;
- disclosing to a covered entity any payment that the pharmacy benefits manager receives based upon the volume of sales for certain drugs or classes or brands of drugs;
- disclosing to a covered entity any arrangements for remuneration between a pharmacy benefits manager and a drug manufacturer or labeler, including formulary management and drug-switch programs, educational support, claims processing and pharmacy network fees charged from retail pharmacies, and data sales fees; and
- allowing a covered entity to audit the pharmacy benefits manager's records to confirm proper disclosures of benefits received by the pharmacy benefits manager.

In addition, pharmacy benefits managers are limited in their activities regarding drug substitution in cases in which they derive payment or benefits related to the price or cost of a drug dispensed through a pharmacy benefits management contract. A pharmacy benefits manager may substitute a lower-priced generic or therapeutically equivalent drug for a higher-priced prescribed drug. If, however, the substituted drug costs more than the prescribed drug, the substitution may only be made for the enrollee's medical benefit and must be followed by (1) the approval of the prescribing health care provider and (2) disclosure to the enrollee and covered entity of the cost of both drugs and any benefit that the pharmacy benefits manager may receive. Those requirements do not apply to the substitution of a higher-priced drug for a lower-priced drug if the individual is enrolled in a state-purchased health care program and the drug is on Washington's Preferred Drug List.

Any waiver of the practice standards by a covered entity is unenforceable and void. A violation of the practice standards is an unfair or deceptive act in trade or commerce and an unfair method of competition under the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2012.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.