

REFERENCE TITLE: prescription drug coverage; steering prohibition

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SB 1161

Introduced by  
Senator Barto

AN ACT

AMENDING TITLE 20, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY  
ADDING SECTIONS 20-3333 AND 20-3334; RELATING TO PHARMACY BENEFIT  
MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 25, article 2, Arizona Revised  
3 Statutes, is amended by adding sections 20-3333 and 20-3334, to read:

4 20-3333. Pharmacy benefit manager; affiliated providers;  
5 prohibition against steering; definition

6 A. A PHARMACY BENEFIT MANAGER MAY NOT TRANSFER TO OR RECEIVE FROM  
7 ITS AFFILIATED PROVIDER A RECORD CONTAINING PATIENT OR PRESCRIBER  
8 IDENTIFIABLE PRESCRIPTION INFORMATION FOR A COMMERCIAL PURPOSE. FOR THE  
9 PURPOSES OF THIS SUBSECTION, COMMERCIAL PURPOSE DOES NOT INCLUDE PHARMACY  
10 REIMBURSEMENT, FORMULARY COMPLIANCE, PHARMACEUTICAL CARE, UTILIZATION  
11 REVIEW BY A HEALTH CARE PROVIDER OR A PUBLIC HEALTH ACTIVITY AUTHORIZED BY  
12 LAW.

13 B. A PHARMACY BENEFIT MANAGER MAY NOT STEER OR DIRECT A PATIENT TO  
14 USE THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER THROUGH ANY ORAL OR  
15 WRITTEN COMMUNICATION, INCLUDING EITHER:

16 1. ONLINE MESSAGING REGARDING THE AFFILIATED PROVIDER.

17 2. PATIENT OR PROSPECTIVE PATIENT SPECIFIC ADVERTISING, MARKETING  
18 OR PROMOTION OF THE AFFILIATED PROVIDER.

19 C. SUBSECTION B OF THIS SECTION DOES NOT PROHIBIT A PHARMACY  
20 BENEFIT MANAGER FROM INCLUDING ITS AFFILIATED PROVIDER IN A PATIENT OR  
21 PROSPECTIVE PATIENT COMMUNICATION IF THE COMMUNICATION BOTH:

22 1. IS REGARDING INFORMATION ABOUT THE COST OR SERVICE PROVIDED BY  
23 PHARMACIES OR DURABLE MEDICAL EQUIPMENT PROVIDERS IN THE NETWORK OF A  
24 HEALTH BENEFITS PLAN IN WHICH THE PATIENT OR PROSPECTIVE PATIENT IS  
25 ENROLLED.

26 2. INCLUDES ACCURATE COMPARABLE INFORMATION REGARDING PHARMACIES OR  
27 DURABLE MEDICAL EQUIPMENT PROVIDERS IN THE NETWORK THAT ARE NOT THE  
28 ISSUER'S OR PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDERS.

29 D. A PHARMACY BENEFIT MANAGER MAY NOT DO ANY OF THE FOLLOWING:

30 1. REQUIRE A PATIENT TO USE THE PHARMACY BENEFIT MANAGER'S  
31 AFFILIATED PROVIDER IN ORDER FOR THE PATIENT TO RECEIVE THE MAXIMUM  
32 BENEFIT FOR THE SERVICE UNDER THE PATIENT'S HEALTH BENEFITS PLAN.

33 2. REQUIRE OR INDUCE A PATIENT TO USE THE PHARMACY BENEFIT  
34 MANAGER'S AFFILIATED PROVIDER, INCLUDING BY PROVIDING FOR REDUCED COST  
35 SHARING IF THE PATIENT USES THE AFFILIATED PROVIDER.

36 3. SOLICIT A PATIENT OR PRESCRIBER TO TRANSFER A PATIENT  
37 PRESCRIPTION TO THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER.

38 4. REQUIRE A PHARMACY OR DURABLE MEDICAL EQUIPMENT PROVIDER THAT IS  
39 NOT THE PHARMACY BENEFIT MANAGER'S AFFILIATED PROVIDER TO TRANSFER A  
40 PATIENT'S PRESCRIPTION TO THE PHARMACY BENEFIT MANAGER'S AFFILIATED  
41 PROVIDER WITHOUT THE PRIOR WRITTEN CONSENT OF THE PATIENT.

42 5. PAY AN AFFILIATED PROVIDER A REIMBURSEMENT AMOUNT THAT IS MORE  
43 THAN THE AMOUNT THE PHARMACY BENEFIT MANAGER PAYS A PHARMACY OR DURABLE  
44 MEDICAL EQUIPMENT PROVIDER THAT IS NOT AN AFFILIATED PROVIDER FOR THE SAME  
45 PRODUCT OR SERVICE.

1 E. THE PROHIBITIONS IN THIS SECTION APPLY TO A PHARMACY BENEFIT  
2 MANAGER ACTING ON ITS OWN BEHALF OR ON BEHALF OF AN INSURER OR THIRD-PARTY  
3 PAYOR.

4 F. FOR THE PURPOSES OF THIS SECTION, "AFFILIATED PROVIDER" MEANS A  
5 PHARMACY OR DURABLE MEDICAL EQUIPMENT PROVIDER THAT DIRECTLY, OR  
6 INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY  
7 OR IS UNDER COMMON CONTROL WITH A PHARMACY BENEFIT MANAGER.

8 20-3334. Clinician-administered drugs; limitations;  
9 definitions

10 A. A PHARMACY BENEFIT MANAGER, HEALTH INSURER OR THIRD-PARTY PAYOR  
11 MAY NOT:

12 1. REQUIRE A CLINICIAN-ADMINISTERED DRUG TO BE DISPENSED BY A  
13 PHARMACY, INCLUDING BY AN AFFILIATED PROVIDER, AS A CONDITION OF COVERAGE.

14 2. LIMIT OR EXCLUDE COVERAGE FOR A CLINICIAN-ADMINISTERED DRUG OR  
15 PRESCRIPTION DRUG THAT IS NOT DISPENSED BY A PHARMACY OR AFFILIATED  
16 PROVIDER, IF THE PRESCRIPTION DRUG IS OTHERWISE COVERED UNDER THE HEALTH  
17 BENEFITS PLAN OR PHARMACY BENEFIT PLAN.

18 3. COVER A PRESCRIPTION DRUG AS A DIFFERENT BENEFIT OR TIER OR WITH  
19 COST SHARING REQUIREMENTS THAT IMPOSE GREATER EXPENSE FOR A COVERED  
20 INDIVIDUAL IF THE DRUG IS DISPENSED OR ADMINISTERED AT THE PRESCRIBER'S  
21 OFFICE, A HOSPITAL OUTPATIENT INFUSION CENTER OR ANY OTHER OUTPATIENT  
22 CLINICAL SETTING RATHER THAN A PHARMACY OR AFFILIATED PROVIDER.

23 B. THIS SECTION DOES NOT DO EITHER OF THE FOLLOWING:

24 1. AUTHORIZE A PERSON TO ADMINISTER A PRESCRIPTION DRUG THAT IS  
25 OTHERWISE PROHIBITED UNDER THE LAWS TO THIS STATE OR FEDERAL LAW.

26 2. MODIFY PRESCRIPTION DRUG ADMINISTRATION REQUIREMENTS UNDER THE  
27 LAWS OF THIS STATE, INCLUDING ANY REQUIREMENTS RELATED TO DELEGATING AND  
28 SUPERVISING PRESCRIPTION DRUG ADMINISTRATION.

29 C. FOR THE PURPOSES OF THIS SECTION:

30 1. "AFFILIATED PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION  
31 20-3333.

32 2. "CLINICIAN-ADMINISTERED DRUG" MEANS AN OUTPATIENT PRESCRIPTION  
33 DRUG THAT CANNOT REASONABLY BE SELF-ADMINISTERED BY THE PATIENT TO WHOM  
34 THE DRUG IS PRESCRIBED AND THAT IS TYPICALLY ADMINISTERED BY A HEALTH CARE  
35 PROVIDER AUTHORIZED UNDER THE LAWS OF THIS STATE TO ADMINISTER THE DRUG.

36 3. "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED,  
37 CERTIFIED OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE SERVICES IN THIS  
38 STATE.

39 4. "PRESCRIBER" MEANS AN INDIVIDUAL WHO IS LICENSED TO PRESCRIBE  
40 PRESCRIPTION DRUGS IN THIS STATE.

41 Sec. 2. Applicability

42 Sections 20-3333 and 20-3334, Arizona Revised Statutes, as added by  
43 this act, apply to contracts entered into, amended, extended or renewed on  
44 or after the effective date of this act.

1           Sec. 3. Severability

2           If a provision of this act or its application to any person or  
3           circumstance is held invalid, the invalidity does not affect other  
4           provisions or applications of the act that can be given effect without the  
5           invalid provision or application, and to this end the provisions of this  
6           act are severable.