

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 3466**

(SENATE AUTHORS: MARTY, Jensen, Wiklund and Klein)

DATE  
02/20/2020

D-PG  
4856

OFFICIAL STATUS  
Introduction and first reading  
Referred to Health and Human Services Finance and Policy

1.1 A bill for an act  
1.2 relating to health care; prohibiting pharmacy benefit managers from contractually  
1.3 restricting pharmacies from discussing reimbursement amounts to enrollees or  
1.4 health carriers; amending Minnesota Statutes 2019 Supplement, section 62W.11.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2019 Supplement, section 62W.11, is amended to read:

1.7 **62W.11 GAG CLAUSE PROHIBITION.**

1.8 (a) No contract between a pharmacy benefit manager or health carrier and a pharmacy  
1.9 or pharmacist shall prohibit, restrict, or penalize a pharmacy or pharmacist from disclosing  
1.10 to an enrollee any health care information that the pharmacy or pharmacist deems appropriate  
1.11 regarding the nature of treatment; the risks or alternatives; the availability of alternative  
1.12 therapies, consultations, or tests; the decision of utilization reviewers or similar persons to  
1.13 authorize or deny services; the process that is used to authorize or deny health care services  
1.14 or benefits; or information on financial incentives and structures used by the health carrier  
1.15 or pharmacy benefit manager.

1.16 (b) A pharmacy or pharmacist must provide to an enrollee information regarding the  
1.17 enrollee's total cost for each prescription drug dispensed where part or all of the cost of the  
1.18 prescription is being paid or reimbursed by the employer-sponsored plan or by a health  
1.19 carrier or pharmacy benefit manager, in accordance with section 151.214, subdivision 1.

1.20 (c) A pharmacy benefit manager or health carrier must not prohibit a pharmacist or  
1.21 pharmacy from discussing information regarding the total cost for pharmacy services for a  
1.22 prescription drug, including the patient's co-payment amount ~~and~~, the pharmacy's own usual  
1.23 and customary price ~~of~~ for the prescription drug, the pharmacy's acquisition cost for the

2.1 prescription drug, and the amount the pharmacy is being reimbursed by the pharmacy benefit  
2.2 manager or health carrier for the prescription drug.

2.3 (d) A pharmacy benefit manager must not prohibit a pharmacist or pharmacy from  
2.4 discussing with a health carrier the amount the pharmacy is being paid or reimbursed for a  
2.5 prescription drug by the pharmacy benefit manager or the pharmacy's acquisition cost for  
2.6 a prescription drug.

2.7 ~~(d)~~ (e) A pharmacy benefit manager or health carrier must not prohibit a pharmacist or  
2.8 pharmacy from discussing the availability of any therapeutically equivalent alternative  
2.9 prescription drugs or alternative methods for purchasing the prescription drug, including  
2.10 but not limited to paying out-of-pocket the pharmacy's usual and customary price when that  
2.11 amount is less expensive to the enrollee than the amount the enrollee is required to pay for  
2.12 the prescription drug under the enrollee's health plan.