

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 971 OF 1991**  
**SENATE BILL 235**

4 **By: Senators Jewell, Moore, Howell, Wilson, Bell, Canada,**  
5 ***Bookout***

6  
7 **For An Act To Be Entitled**

8 "AN ACT TO ENSURE THAT PATIENTS HAVE THE RIGHT TO SELECT  
9 THE PHARMACY OR PHARMACIST OF THEIR CHOICE WITH CERTAIN  
10 LIMITATIONS; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. This act shall apply to medical benefit contracts, health  
15 care centers, insurance companies and health maintenance organizations which  
16 provide coverage for prescription drugs.

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18 SECTION 2. As used in this act:

19 (a) "Co-payment" means a type of cost sharing whereby insured or  
20 covered persons pay a specified predetermined amount per unit of service with  
21 their insurer paying the remainder of the charge. The co-payment is incurred  
22 at the time the service is used. The co-payment may be a fixed or variable  
23 amount.

24 (b) "Contract provider" means a pharmacy or pharmacist granted the  
25 right to provide prescription drugs and pharmacy services according to the  
26 terms of the insurer.

27 (c) "Insurer" means any individual, plan, policy or contract that  
28 provides health care coverage benefits for pharmacy services including, but  
29 not limited to, prescription drugs.

30 (d) "Pharmacist" means any person licensed by the Arkansas State Board  
31 of Pharmacy to practice pharmacy.

32 (e) "Pharmacy" means a pharmacy licensed by the Arkansas State Board of  
33 Pharmacy.

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35 SECTION 3. A health insurance plan, policy or health maintenance  
36 organization may not:

1 (a) prohibit or limit in the state of Arkansas any person who is a  
2 participant or beneficiary of the policy or plan from selecting a pharmacy or  
3 pharmacist of his choice who has agreed to participate in the plan according  
4 to the terms offered by the insurer, or

5 (b) deny a pharmacy or pharmacist the right to participate as a  
6 contract provider under the policy or plan if the pharmacy or pharmacist  
7 agrees to provide pharmacy services, including but not limited to prescription  
8 drugs, that meet the terms and requirements set forth by the insurer under the  
9 policy or plan and agrees to the terms of reimbursement set forth by the  
10 insurer.

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12 SECTION 4. Since a co-payment is implemented by an insurer to  
13 discourage over-utilization of a covered service by the insured, it  
14 constitutes unprofessional conduct for a pharmacy or pharmacist to waive,  
15 discount, rebate or in any way distort the designated co-payment of any  
16 insurer plan or patient's co-insurance portion of a prescription medication  
17 coverage plan.

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19 SECTION 5. No insurer may impose upon a beneficiary any co-payment, fee  
20 or condition that is not equally imposed upon all beneficiaries in the plan.

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22 SECTION 6. Health maintenance organizations which are both state  
23 certified and federally qualified *and self-insured plans under the Employee*  
24 *Retirement Income Security Act of 1974 (ERISA)* are not covered by the  
25 provisions of this act.

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27 SECTION 7. The Commissioner of Insurance of the state of Arkansas is  
28 empowered and required to enforce the provisions of this act.

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30 SECTION 8. All provisions of this act of a general and permanent nature  
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 9. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without  
2 the invalid provision or application, and to this end the provisions of this  
3 act are declared to be severable.

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5 SECTION 10. All laws and parts of laws in conflict with this act are  
6 hereby repealed.

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*/s/Jewell et al*

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APPROVED: 3/29/91

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