1 **State of Arkansas**

2 **78th General Assembly**   **A Bill**

3 **Regular Session, 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."

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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

1 organization may not:

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

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

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

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

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

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

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

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

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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.
7   */s/Jewell et al*
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