

1.1 ..... moves to amend H.F. No. 1279 as follows:

1.2 Page 1, delete sections 2 and 3 and insert:

1.3 "Sec. 2. Minnesota Statutes 2020, section 62W.02, is amended by adding a subdivision  
1.4 to read:

1.5 Subd. 15a. **Pharmacy benefit manager affiliate.** "Pharmacy benefit manager affiliate"  
1.6 or "affiliate" means a pharmacy that directly or indirectly through one or more intermediaries  
1.7 owns or controls, is owned or controlled by, or is under common ownership or control with  
1.8 a pharmacy benefit manager.

1.9 Sec. 3. Minnesota Statutes 2020, section 62W.02, is amended by adding a subdivision to  
1.10 read:

1.11 Subd. 15b. **Pharmaceutical wholesaler.** "Pharmaceutical wholesaler" means a person  
1.12 or entity that sells and distributes prescription pharmaceutical products, including but not  
1.13 limited to brand name, generic, and over-the-counter drugs, and offers regular and private  
1.14 delivery to a pharmacy.

1.15 Sec. 4. Minnesota Statutes 2020, section 62W.02, is amended by adding a subdivision to  
1.16 read:

1.17 Subd. 21. **Spread pricing.** "Spread pricing" means any amount a pharmacy benefit  
1.18 manager charges a plan sponsor for payment for a prescription drug or pharmacy service  
1.19 that is different than the amount the pharmacy benefit manager paid either directly or  
1.20 indirectly to the pharmacy or pharmacist for the prescription drug or for providing the  
1.21 pharmacy service."

1.22 Page 2, lines 20 and 28, delete "manger" and insert "manager"

2.1 Page 2, delete lines 22 to 24 and insert:

2.2 "(e) A pharmacy benefit manager must not amend or change the terms of an existing  
2.3 contract between the pharmacy benefit manager and the pharmacy unless: (1) the change  
2.4 is disclosed to the pharmacy at least 45 days before the effective date of the change and the  
2.5 change is agreed to in writing by the pharmacy or the pharmacy's representative; or (2) the  
2.6 change is required to be made under state or federal law or by a governmental regulatory  
2.7 authority. If the change is required by law or regulatory authority, the pharmacy benefit  
2.8 manager must provide the pharmacy with the specific statute or regulation requiring the  
2.9 change."

2.10 Page 3, line 7, before the period, insert ", unless the reduction is a result of an audit  
2.11 performed under section 62W.09 and complies with section 62W.13"

2.12 Page 3, line 16, strike "at the beginning of each contract and" and insert "before entering  
2.13 into the initial contract and before" and after the second "the" insert "maximum allowable  
2.14 cost price list and the"

2.15 Page 4, line 2, before "set" insert "not"

2.16 Page 4, line 3, after "allowable" insert "cost"

2.17 Page 5, line 15, after the period, insert "The pharmacy benefit manager must notify the  
2.18 challenging pharmacy within three business days that the appeal was received."

2.19 Page 5, line 17, after the comma, insert "or the pharmacy benefit manager fails to resolve  
2.20 the appeal within the time period established in paragraph (e),"

2.21 Page 6, after line 8, insert:

2.22 "Sec. 8. Minnesota Statutes 2020, section 62W.09, subdivision 1, is amended to read:

2.23 Subdivision 1. **Procedure and process for conducting and reporting an audit.** (a)  
2.24 Unless otherwise prohibited by federal requirements or regulations, any entity conducting  
2.25 a pharmacy audit must follow the following procedures:

2.26 (1) a pharmacy must be given notice 14 days before an initial on-site audit is conducted;

2.27 (2) an audit that involves clinical or professional judgment must be conducted by or in  
2.28 consultation with a licensed pharmacist; and

2.29 (3) each pharmacy shall be audited under the same standards and parameters as other  
2.30 similarly situated pharmacies.

3.1 (b) Unless otherwise prohibited by federal requirements or regulations, for any entity  
3.2 conducting a pharmacy audit the following items apply:

3.3 (1) the period covered by the audit may not exceed ~~24~~ six months from the date that the  
3.4 claim was submitted to or adjudicated by the entity, unless a longer period is required under  
3.5 state or federal law;

3.6 (2) if an entity uses random sampling as a method for selecting a set of claims for  
3.7 examination, the sample size must be appropriate for a statistically reliable sample.  
3.8 Notwithstanding section 151.69, the auditing entity shall provide the pharmacy a masked  
3.9 list that provides a prescription number or date range that the auditing entity is seeking to  
3.10 audit;

3.11 (3) an on-site audit may not take place during the first five business days of the month  
3.12 unless consented to by the pharmacy;

3.13 (4) auditors may not enter the pharmacy area unless escorted where patient-specific  
3.14 information is available and to the extent possible must be out of sight and hearing range  
3.15 of the pharmacy customers;

3.16 (5) any recoupment will not be deducted against future remittances until after the appeals  
3.17 process and both parties have received the results of the final audit;

3.18 (6) a pharmacy benefit manager may not require information to be written on a  
3.19 prescription unless the information is required to be written on the prescription by state or  
3.20 federal law. Recoupment may be assessed for items not written on the prescription if:

3.21 (i) additional information is required in the provider manual; or

3.22 (ii) the information is required by the Food and Drug Administration (FDA); or

3.23 (iii) the information is required by the drug manufacturer's product safety program; and

3.24 (iv) the information in item (i), (ii), or (iii) is not readily available for the auditor at the  
3.25 time of the audit; and

3.26 (7) the auditing company or agent may not receive payment based on a percentage of  
3.27 the amount recovered. This section does not prevent the entity conducting the audit from  
3.28 charging or assessing the responsible party, directly or indirectly, based on amounts recouped  
3.29 if both of the following conditions are met:

3.30 (i) the plan sponsor and the entity conducting the audit have a contract that explicitly  
3.31 states the percentage charge or assessment to the plan sponsor; and

4.1 (ii) a commission to an agent or employee of the entity conducting the audit is not based,  
4.2 directly or indirectly, on amounts recouped.

4.3 (c) An amendment to pharmacy audit terms in a contract between a pharmacy benefit  
4.4 manager and a pharmacy must be disclosed to the pharmacy at least 60 days prior to the  
4.5 effective date of the proposed change."

4.6 Page 6, line 13, after the comma, insert "more than 30 days after the original claim was  
4.7 submitted," and strike the colon

4.8 Page 6, line 14, strike "(1)"

4.9 Page 6, line 16, delete "(i)" and insert "(1)"

4.10 Page 6, line 17, delete "(ii)" and insert "(2)"

4.11 Page 6, line 19, delete "(iii)" and insert "(3)" and delete "properly" and insert "dispensed  
4.12 or"

4.13 Page 6, line 20, strike "; or" and insert a period

4.14 Page 6, strike line 21

4.15 Renumber the sections in sequence and correct the internal references

4.16 Amend the title accordingly