

ASSEMBLY, No. 277

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN ARMATO

District 2 (Atlantic)

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District 18 (Middlesex)

SYNOPSIS

Requires public members of Drug Utilization Review Board to disclose financial interests and benefits received from and investment interests held in pharmaceutical manufacturers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the Drug Utilization Review Board and
2 amending P.L.1998, c.41.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is amended to
8 read as follows:

9 2. a. There is established the Drug Utilization Review Board
10 in the department to advise the department on the implementation of
11 a drug utilization review program pursuant to P.L.1993, c.16
12 (C.30:4D-17.16 et seq.) and this section. The board shall establish
13 a Senior Drug Utilization Review Committee to address the specific
14 prescribing needs of the elderly and an AIDS/HIV Drug Utilization
15 Review Committee to address the specific prescribing needs of
16 persons with AIDS/HIV, in addition to such other committees as it
17 deems necessary. It shall be the responsibility of each committee to
18 evaluate the specific prescribing needs of its beneficiary population,
19 and to submit recommendations to the board in regard thereto.

20 The board shall consist of 17 members, including the
21 Commissioners of Human Services and Health or their designees,
22 who shall serve as nonvoting ex officio members, and 15 public
23 members. The public members shall be appointed by the Governor
24 with the advice and consent of the Senate. The appointments shall
25 be made as follows: six persons licensed and actively engaged in
26 the practice of medicine in this State, including one who is a
27 psychiatrist and at least two who specialize in geriatric medicine
28 and two who specialize in AIDS/HIV care, one of whom who is a
29 pediatric AIDS/HIV specialist, four of whom shall be appointed
30 upon the recommendation of the Medical Society of New Jersey
31 and two upon the recommendation of the New Jersey Association of
32 Osteopathic Physicians and Surgeons; one person licensed as a
33 physician in this State who is actively engaged in academic
34 medicine; four persons licensed in and actively practicing or
35 teaching pharmacy in this State, who shall be appointed from a list
36 of pharmacists recommended by the New Jersey Pharmacists
37 Association, the New Jersey Council of Chain Drug Stores, the
38 Garden State Pharmacy Owners, Inc., the New Jersey Society of
39 Hospital Pharmacists, the Academy of Consultant Pharmacists and
40 the College of Pharmacy of Rutgers, The State University; one
41 additional health care professional; two persons certified as
42 advanced practice nurses in this State, who shall be appointed upon
43 the recommendation of the New Jersey State Nurses Association;
44 and one member to be appointed upon the recommendation of the
45 Pharmaceutical Research and Manufacturers of America.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 Each member of the board shall have expertise in the clinically
2 appropriate prescribing and dispensing of outpatient drugs.
- 3 At the time of appointment, each public member shall submit a
4 written disclosure to the Department of Human Services and to the
5 Office of the Attorney General detailing any financial interest or
6 benefit furnished to the member by or through a pharmaceutical
7 manufacturer within the preceding three years, including, but not
8 limited to, any meals, payments, gifts, stocks, or salary furnished to
9 the member by the manufacturer and any stock or other investment
10 interest held in a pharmaceutical manufacturer by the member.
11 Thereafter, each public member shall submit an updated disclosure
12 on a quarterly basis for the duration of the member's term as a
13 board member concerning any financial interest or benefit furnished
14 to the member by or through a pharmaceutical manufacturer and
15 any investment interest in a pharmaceutical manufacturer acquired
16 or held by the member in the period following the date of the
17 member's last written disclosure. An individual who fails to submit
18 a written disclosure pursuant to this subsection shall be ineligible to
19 serve as a board member and, if currently serving on the board,
20 shall be immediately removed from the board. In addition, any
21 individual who submits a written disclosure that is materially false,
22 misleading, inaccurate, or incomplete shall be liable to a civil
23 penalty of up to \$20,000, which shall be collected and enforced by
24 summary proceedings pursuant to the provisions of the "Penalty
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
26 Written disclosures submitted pursuant to this subsection shall be
27 made available to the public on the Internet websites of the
28 Department of Human Services and the Office of the Attorney
29 General.
- 30 b. All appointments to the board shall be made no later than the
31 60th day after the effective date of this act. The public members
32 shall be appointed for two-year terms and shall serve until a
33 successor is appointed and qualified, and are eligible for
34 reappointment; except that of the public members first appointed,
35 eight shall be appointed for a term of two years and five for a term
36 of one year.
- 37 c. Vacancies in the membership of the board shall be filled in
38 the same manner as the original appointments were made but for the
39 unexpired term only. Members of the board shall serve with
40 compensation for the time and expenses incurred in the
41 performance of their duties as board members, as determined by the
42 Commissioners of Human Services and Health, subject to the
43 approval of the Director of the Division of Budget and Accounting
44 in the Department of the Treasury.
- 45 d. The board shall select a chairman from among the public
46 members, who shall serve a one-year term, and a secretary. The
47 chairman may serve consecutive terms. The board shall adopt
48 bylaws. The board shall meet at least quarterly and may meet at

1 other times at the call of the chairman. The board shall in all
2 respects comply with the provisions of the "Senator Byron M. Baer
3 Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). No
4 motion to take any action by the board shall be valid except upon
5 the affirmative vote of a majority of the authorized membership of
6 the board.

7 e. The duties of the board shall include the development and
8 application of the criteria and standards to be used in retrospective
9 and prospective drug utilization review. The criteria and standards
10 shall be based on the compendia and developed with professional
11 input in a consensus fashion. There shall be provisions for timely
12 reassessments and revisions as necessary and provisions for input
13 by persons acting as patient advocates. The drug utilization review
14 standards shall reflect the local practices of prescribers, in order to
15 monitor:

- 16 (1) therapeutic appropriateness;
- 17 (2) overutilization or underutilization;
- 18 (3) therapeutic duplication;
- 19 (4) drug-disease contraindications;
- 20 (5) drug-drug interactions;
- 21 (6) incorrect drug dosage;
- 22 (7) duration of drug treatment; and
- 23 (8) clinical drug abuse or misuse.

24 The board shall recommend to the department criteria for denials
25 of claims and establish standards for a medical exception process.
26 The board shall also consider relevant information provided by
27 interested parties outside of the board and, if appropriate, shall
28 make revisions to the criteria and standards in a timely manner
29 based upon this information.

30 f. The board, with the approval of the department, shall be
31 responsible for the development, selection, application, and
32 assessment of interventions or remedial strategies for prescribers,
33 pharmacists, and beneficiaries that are educational and not punitive
34 in nature to improve the quality of care, including:

- 35 (1) Information disseminated to prescribers and pharmacists to
36 ensure that they are aware of the duties and powers of the board;

37 (2) Written, oral, or electronic reminders of patient-specific or
38 drug-specific information that are designed to ensure prescriber,
39 pharmacist, and beneficiary confidentiality, and suggested changes
40 in the prescribing or dispensing practices designed to improve the
41 quality of care;

42 (3) The development of an educational program, using data
43 provided through drug utilization review as a part of active and
44 ongoing educational outreach activities to improve prescribing and
45 dispensing practices as provided in this section. These educational
46 outreach activities shall include accurate, balanced, and timely
47 information about drugs and their effect on a patient. If the board
48 contracts with another entity to provide this program, that entity

1 shall publicly disclose any financial interest or benefit that accrues
2 to it from the products selected or used in this program;

3 (4) Use of face-to-face discussion between experts in drug
4 therapy and the prescriber or pharmacist who has been designated
5 by the board for educational intervention;

6 (5) Intensified reviews or monitoring of selected prescribers or
7 pharmacists;

8 (6) The timely evaluation of interventions to determine whether
9 the interventions have improved the quality of care; and

10 (7) The review of case profiles prior to the conducting of an
11 intervention.

12 (cf: P.L.2012, c.17, s.370)

13
14 2. The Commissioner of Human Services and the Attorney
15 General may, pursuant to the "Administrative Procedure Act,"
16 P.L.1968, c.410 (C.52:14B-1 et seq.) adopt rules and regulations as
17 may be necessary to implement the provisions of this act.

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19 3. This act shall take effect immediately.
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22 STATEMENT

23
24 This bill requires the public members of the New Jersey Drug
25 Utilization Review Board to, at the time of their appointment,
26 submit a written disclosure to the Department of Human Services
27 and to the Office of the Attorney General detailing any financial
28 interest or other benefit furnished to the member by a
29 pharmaceutical manufacturer within the preceding three years,
30 including, but not limited to, any meals, payments, gifts, stocks, or
31 salary, as well as any investment interest held in any
32 pharmaceutical manufacturer by the member. Thereafter, each
33 public member will be required update the written disclosure on a
34 quarterly basis throughout the member's term of service on the
35 board. The written disclosures will be made available to the public
36 on the Internet websites of the Department of Human Services and
37 the Office of the Attorney General.

38 An individual who fails to submit a written disclosure pursuant
39 to the bill will be ineligible to serve as a board member and, if
40 currently serving on the board, will be immediately removed from
41 the board. In addition, any individual who submits a written
42 disclosure that is materially false, misleading, inaccurate, or
43 incomplete will be liable to a civil penalty of up to \$20,000.

44 The Drug Utilization Review Board conducts an ongoing review
45 of drugs prescribed under the Medicaid and NJ FamilyCare
46 programs to ensure that patients have access to effective, affordable
47 forms of treatment while avoiding the use of ineffective, redundant,
48 or unnecessary therapies. The goals of this review are to maximize

1 patient safety, prevent waste, and reduce overall program costs.
2 The Drug Utilization Review Board determines which drugs may be
3 prescribed under the Medicaid and NJ FamilyCare programs
4 without the need for additional authorization; inclusion on the list
5 increases the likelihood the drug will be prescribed to program
6 beneficiaries, which provides a competitive advantage to the maker
7 of the drug.

8 Recent investigations suggest there has been a comprehensive
9 effort by pharmaceutical manufacturers to influence drug utilization
10 review boards throughout the country by providing board members
11 with meals, gifts, paid consulting jobs, all-expenses-paid
12 conferences, and direct compensation, among other items of value.
13 These efforts present a significant risk that board decisions will not
14 reflect the best interests of the State and the best interests of
15 Medicaid and NJ FamilyCare enrollees. It is the sponsor's belief
16 that requiring full disclosure of any items of value furnished to a
17 board member by a pharmaceutical manufacturer will help ensure
18 the board can serve its fundamental purpose in maximizing the
19 effectiveness and efficiency of the prescription drug therapies
20 covered under the Medicaid and NJ FamilyCare programs.