AN ACT to amend 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.983 (1)
(intro.) and 609.83; and to create 632.863 of the statutes; relating to:
disclosures of prescription drug costs under health insurance policies and
plans.

Analysis by the Legislative Reference Bureau

This bill prohibits a health insurance policy, referred to in the statutes as a
disability insurance policy, or a governmental self-insured health plan from
including in a contract for pharmacy services, or allowing a pharmacy benefit
manager or another entity to include in a contract for pharmacy services, a provision
that prohibits or penalizes a pharmacist’s disclosure to an individual purchasing a
prescribed drug or device of the cost of a prescribed drug or device, a less expensive
therapeutically equivalent drug or device, or a less expensive method of purchasing
the drug or device.

This proposal may contain a health insurance mandate requiring a social and
financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:

SECTION 1. 40.51 (8) of the statutes is amended to read:
40.51 (8) Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.863, 632.867, 632.87 (3) to (6), 632.885, 632.89, 632.895 (5m) and (8) to (17), and 632.896.

SECTION 2. 40.51 (8m) of the statutes is amended to read:

40.51 (8m) Every health care coverage plan offered by the group insurance board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.863, 632.867, 632.885, 632.89, and 632.895 (11) to (17).

SECTION 3. 66.0137 (4) of the statutes, as affected by 2017 Wisconsin Act 30, is amended to read:

66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self-insured basis, the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.863, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

SECTION 4. 120.13 (2) (g) of the statutes, as affected by 2017 Wisconsin Act 30, is amended to read:

120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.863, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).
SECTION 5. 185.983 (1) (intro.) of the statutes, as affected by 2017 Wisconsin Act 30, is amended to read:

185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a cooperative association organized under s. 185.981 shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798, 632.85, 632.853, 632.855, 632.863, 632.867, 632.87 (2) to (6), 632.885, 632.89, 632.895 (5) and (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but the sponsoring association shall:

SECTION 6. 609.83 of the statutes is amended to read:

609.83 Coverage and disclosures of drugs and devices. Limited service health organizations, preferred provider plans, and defined network plans are subject to ss. 632.853 and 632.863.

SECTION 7. 632.863 of the statutes is created to read:

632.863 Disclosure of prescription drug charges. (1) Definitions. In this section:

(a) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

(b) “Pharmacist” has the meaning given in s. 450.01 (15).

(c) “Pharmacy benefit manager” has the meaning given in s. 632.865 (1) (c).

(d) “Prescribed drug or device” has the meaning given in s. 450.01 (18).

(e) “Prescription drug benefit” has the meaning given in s. 632.865 (1) (e).

(f) “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

(2) Allowing disclosures. No disability insurance policy or self-insured health plan that provides a prescription drug benefit may include in a contract for
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pharmacy services, or allow a pharmacy benefit manager or another entity to include
in a contract for pharmacy services, a provision that prohibits or penalizes, including
by increased utilization review, reduced reimbursement, or other financial
disincentives, a disclosure of any of the following by a pharmacist to an individual
purchasing a prescribed drug or device:

(a) The cost of the prescribed drug or device to the individual.

(b) The availability of any therapeutically equivalent alternative prescribed
drugs or devices or alternative methods of purchasing the prescribed drug or device,
including paying cash, that are less expensive to the individual.

SECTION 8. Initial applicability.

(1) (a) For policies and plans containing provisions inconsistent with this act,
this act first applies to policy or plan years beginning on January 1 of the year
following the year in which this paragraph takes effect, except as provided in
paragraph (b).

(b) For policies or plans that are affected by a collective bargaining agreement
containing provisions inconsistent with this act, this act first applies to policy or plan
years beginning on the effective date of this paragraph or on the day on which the
collective bargaining agreement is newly established, extended, modified, or
renewed, whichever is later.

SECTION 9. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after
publication.

(END)