

Bill Summary
2nd Session of the 58th Legislature

Bill No.:	SB 1635
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Bill Analysis

The CS for SB 1635 directs the Insurance Department to ensure no pharmacy benefit manager (PBM) participates in a clawback. A clawback, as defined in the measure, is the act by the pharmacy benefit manager of recovering from the dispensing pharmacy and keeping as revenue the difference between a patient's co-payment and the pharmacy drug cost when the co-payment exceeds the pharmacy drug cost. If the Insurance Commissioner finds that a PBM is violating this provision, the Commissioner is directed to issue a cease and desist order to the PBM directing it to stop the unlawful practice. Failure to halt the unlawful practice shall subject such a PBM to revocation of its license by the Commissioner. The Attorney General shall assist the Commissioner in the enforcement of the provisions of this measure upon request by the Commissioner. Reasonable attorney fees shall be awarded the Commissioner if judicial action is necessary for the enforcement of the order. Fees shall be credited to the Insurance Commissioner's Revolving Fund if the Attorney General did not assist enforcement and to the Attorney General's Revolving Fund if aid was rendered. The CS also prohibits PBMs from charging pharmacies any fee relating to the credentialing of a pharmacy or pharmacist, participation in a retail pharmacy network, and the development or management of claims processing services or claims payment services related to participation in a retail pharmacy network. PBM contracts must also ensure that access to local healthcare is not jeopardized by immediately modifying any rates or provisions that would result in a reimbursement below the pharmacy's cost to acquire and dispense the medication or product.

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