



Rep. Thaddeus Jones

**Filed: 4/1/2024**

10300HB4548ham001

LRB103 35901 RPS 70762 a

1 AMENDMENT TO HOUSE BILL 4548

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4548 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by  
5 changing Section 7 as follows:

6 (5 ILCS 140/7)

7 Sec. 7. Exemptions.

8 (1) When a request is made to inspect or copy a public  
9 record that contains information that is exempt from  
10 disclosure under this Section, but also contains information  
11 that is not exempt from disclosure, the public body may elect  
12 to redact the information that is exempt. The public body  
13 shall make the remaining information available for inspection  
14 and copying. Subject to this requirement, the following shall  
15 be exempt from inspection and copying:

16 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and  
2 regulations implementing federal or State law.

3 (b) Private information, unless disclosure is required  
4 by another provision of this Act, a State or federal law,  
5 or a court order.

6 (b-5) Files, documents, and other data or databases  
7 maintained by one or more law enforcement agencies and  
8 specifically designed to provide information to one or  
9 more law enforcement agencies regarding the physical or  
10 mental status of one or more individual subjects.

11 (c) Personal information contained within public  
12 records, the disclosure of which would constitute a  
13 clearly unwarranted invasion of personal privacy, unless  
14 the disclosure is consented to in writing by the  
15 individual subjects of the information. "Unwarranted  
16 invasion of personal privacy" means the disclosure of  
17 information that is highly personal or objectionable to a  
18 reasonable person and in which the subject's right to  
19 privacy outweighs any legitimate public interest in  
20 obtaining the information. The disclosure of information  
21 that bears on the public duties of public employees and  
22 officials shall not be considered an invasion of personal  
23 privacy.

24 (d) Records in the possession of any public body  
25 created in the course of administrative enforcement  
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the  
2 extent that disclosure would:

3 (i) interfere with pending or actually and  
4 reasonably contemplated law enforcement proceedings  
5 conducted by any law enforcement or correctional  
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative  
8 enforcement proceedings conducted by the public body  
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a  
11 person will be deprived of a fair trial or an impartial  
12 hearing;

13 (iv) unavoidably disclose the identity of a  
14 confidential source, confidential information  
15 furnished only by the confidential source, or persons  
16 who file complaints with or provide information to  
17 administrative, investigative, law enforcement, or  
18 penal agencies; except that the identities of  
19 witnesses to traffic crashes, traffic crash reports,  
20 and rescue reports shall be provided by agencies of  
21 local government, except when disclosure would  
22 interfere with an active criminal investigation  
23 conducted by the agency that is the recipient of the  
24 request;

25 (v) disclose unique or specialized investigative  
26 techniques other than those generally used and known

1 or disclose internal documents of correctional  
2 agencies related to detection, observation, or  
3 investigation of incidents of crime or misconduct, and  
4 disclosure would result in demonstrable harm to the  
5 agency or public body that is the recipient of the  
6 request;

7 (vi) endanger the life or physical safety of law  
8 enforcement personnel or any other person; or

9 (vii) obstruct an ongoing criminal investigation  
10 by the agency that is the recipient of the request.

11 (d-5) A law enforcement record created for law  
12 enforcement purposes and contained in a shared electronic  
13 record management system if the law enforcement agency  
14 that is the recipient of the request did not create the  
15 record, did not participate in or have a role in any of the  
16 events which are the subject of the record, and only has  
17 access to the record through the shared electronic record  
18 management system.

19 (d-6) Records contained in the Officer Professional  
20 Conduct Database under Section 9.2 of the Illinois Police  
21 Training Act, except to the extent authorized under that  
22 Section. This includes the documents supplied to the  
23 Illinois Law Enforcement Training Standards Board from the  
24 Illinois State Police and Illinois State Police Merit  
25 Board.

26 (d-7) Information gathered or records created from the

1 use of automatic license plate readers in connection with  
2 Section 2-130 of the Illinois Vehicle Code.

3 (e) Records that relate to or affect the security of  
4 correctional institutions and detention facilities.

5 (e-5) Records requested by persons committed to the  
6 Department of Corrections, Department of Human Services  
7 Division of Mental Health, or a county jail if those  
8 materials are available in the library of the correctional  
9 institution or facility or jail where the inmate is  
10 confined.

11 (e-6) Records requested by persons committed to the  
12 Department of Corrections, Department of Human Services  
13 Division of Mental Health, or a county jail if those  
14 materials include records from staff members' personnel  
15 files, staff rosters, or other staffing assignment  
16 information.

17 (e-7) Records requested by persons committed to the  
18 Department of Corrections or Department of Human Services  
19 Division of Mental Health if those materials are available  
20 through an administrative request to the Department of  
21 Corrections or Department of Human Services Division of  
22 Mental Health.

23 (e-8) Records requested by a person committed to the  
24 Department of Corrections, Department of Human Services  
25 Division of Mental Health, or a county jail, the  
26 disclosure of which would result in the risk of harm to any

1 person or the risk of an escape from a jail or correctional  
2 institution or facility.

3 (e-9) Records requested by a person in a county jail  
4 or committed to the Department of Corrections or  
5 Department of Human Services Division of Mental Health,  
6 containing personal information pertaining to the person's  
7 victim or the victim's family, including, but not limited  
8 to, a victim's home address, home telephone number, work  
9 or school address, work telephone number, social security  
10 number, or any other identifying information, except as  
11 may be relevant to a requester's current or potential case  
12 or claim.

13 (e-10) Law enforcement records of other persons  
14 requested by a person committed to the Department of  
15 Corrections, Department of Human Services Division of  
16 Mental Health, or a county jail, including, but not  
17 limited to, arrest and booking records, mug shots, and  
18 crime scene photographs, except as these records may be  
19 relevant to the requester's current or potential case or  
20 claim.

21 (f) Preliminary drafts, notes, recommendations,  
22 memoranda, and other records in which opinions are  
23 expressed, or policies or actions are formulated, except  
24 that a specific record or relevant portion of a record  
25 shall not be exempt when the record is publicly cited and  
26 identified by the head of the public body. The exemption

1 provided in this paragraph (f) extends to all those  
2 records of officers and agencies of the General Assembly  
3 that pertain to the preparation of legislative documents.

4 (g) Trade secrets and commercial or financial  
5 information obtained from a person or business where the  
6 trade secrets or commercial or financial information are  
7 furnished under a claim that they are proprietary,  
8 privileged, or confidential, and that disclosure of the  
9 trade secrets or commercial or financial information would  
10 cause competitive harm to the person or business, and only  
11 insofar as the claim directly applies to the records  
12 requested.

13 The information included under this exemption includes  
14 all trade secrets and commercial or financial information  
15 obtained by a public body, including a public pension  
16 fund, from a private equity fund or a privately held  
17 company within the investment portfolio of a private  
18 equity fund as a result of either investing or evaluating  
19 a potential investment of public funds in a private equity  
20 fund. The exemption contained in this item does not apply  
21 to the aggregate financial performance information of a  
22 private equity fund, nor to the identity of the fund's  
23 managers or general partners. The exemption contained in  
24 this item does not apply to the identity of a privately  
25 held company within the investment portfolio of a private  
26 equity fund, unless the disclosure of the identity of a

1 privately held company may cause competitive harm.

2 Nothing contained in this paragraph (g) shall be  
3 construed to prevent a person or business from consenting  
4 to disclosure.

5 (h) Proposals and bids for any contract, grant, or  
6 agreement, including information which if it were  
7 disclosed would frustrate procurement or give an advantage  
8 to any person proposing to enter into a contractor  
9 agreement with the body, until an award or final selection  
10 is made. Information prepared by or for the body in  
11 preparation of a bid solicitation shall be exempt until an  
12 award or final selection is made.

13 (i) Valuable formulae, computer geographic systems,  
14 designs, drawings, and research data obtained or produced  
15 by any public body when disclosure could reasonably be  
16 expected to produce private gain or public loss. The  
17 exemption for "computer geographic systems" provided in  
18 this paragraph (i) does not extend to requests made by  
19 news media as defined in Section 2 of this Act when the  
20 requested information is not otherwise exempt and the only  
21 purpose of the request is to access and disseminate  
22 information regarding the health, safety, welfare, or  
23 legal rights of the general public.

24 (j) The following information pertaining to  
25 educational matters:

26 (i) test questions, scoring keys, and other



1 examination data used to administer an academic  
2 examination;

3 (ii) information received by a primary or  
4 secondary school, college, or university under its  
5 procedures for the evaluation of faculty members by  
6 their academic peers;

7 (iii) information concerning a school or  
8 university's adjudication of student disciplinary  
9 cases, but only to the extent that disclosure would  
10 unavoidably reveal the identity of the student; and

11 (iv) course materials or research materials used  
12 by faculty members.

13 (k) Architects' plans, engineers' technical  
14 submissions, and other construction related technical  
15 documents for projects not constructed or developed in  
16 whole or in part with public funds and the same for  
17 projects constructed or developed with public funds,  
18 including, but not limited to, power generating and  
19 distribution stations and other transmission and  
20 distribution facilities, water treatment facilities,  
21 airport facilities, sport stadiums, convention centers,  
22 and all government owned, operated, or occupied buildings,  
23 but only to the extent that disclosure would compromise  
24 security.

25 (l) Minutes of meetings of public bodies closed to the  
26 public as provided in the Open Meetings Act until the

1 public body makes the minutes available to the public  
2 under Section 2.06 of the Open Meetings Act.

3 (m) Communications between a public body and an  
4 attorney or auditor representing the public body that  
5 would not be subject to discovery in litigation, and  
6 materials prepared or compiled by or for a public body in  
7 anticipation of a criminal, civil, or administrative  
8 proceeding upon the request of an attorney advising the  
9 public body, and materials prepared or compiled with  
10 respect to internal audits of public bodies.

11 (n) Records relating to a public body's adjudication  
12 of employee grievances or disciplinary cases; however,  
13 this exemption shall not extend to the final outcome of  
14 cases in which discipline is imposed.

15 (o) Administrative or technical information associated  
16 with automated data processing operations, including, but  
17 not limited to, software, operating protocols, computer  
18 program abstracts, file layouts, source listings, object  
19 modules, load modules, user guides, documentation  
20 pertaining to all logical and physical design of  
21 computerized systems, employee manuals, and any other  
22 information that, if disclosed, would jeopardize the  
23 security of the system or its data or the security of  
24 materials exempt under this Section.

25 (p) Records relating to collective negotiating matters  
26 between public bodies and their employees or

1 representatives, except that any final contract or  
2 agreement shall be subject to inspection and copying.

3 (q) Test questions, scoring keys, and other  
4 examination data used to determine the qualifications of  
5 an applicant for a license or employment.

6 (r) The records, documents, and information relating  
7 to real estate purchase negotiations until those  
8 negotiations have been completed or otherwise terminated.  
9 With regard to a parcel involved in a pending or actually  
10 and reasonably contemplated eminent domain proceeding  
11 under the Eminent Domain Act, records, documents, and  
12 information relating to that parcel shall be exempt except  
13 as may be allowed under discovery rules adopted by the  
14 Illinois Supreme Court. The records, documents, and  
15 information relating to a real estate sale shall be exempt  
16 until a sale is consummated.

17 (s) Any and all proprietary information and records  
18 related to the operation of an intergovernmental risk  
19 management association or self-insurance pool or jointly  
20 self-administered health and accident cooperative or pool.  
21 Insurance or self-insurance (including any  
22 intergovernmental risk management association or  
23 self-insurance pool) claims, loss or risk management  
24 information, records, data, advice, or communications.

25 (t) Information contained in or related to  
26 examination, operating, or condition reports prepared by,

1 on behalf of, or for the use of a public body responsible  
2 for the regulation or supervision of financial  
3 institutions, insurance companies, or pharmacy benefit  
4 managers, unless disclosure is otherwise required by State  
5 law.

6 (u) Information that would disclose or might lead to  
7 the disclosure of secret or confidential information,  
8 codes, algorithms, programs, or private keys intended to  
9 be used to create electronic signatures under the Uniform  
10 Electronic Transactions Act.

11 (v) Vulnerability assessments, security measures, and  
12 response policies or plans that are designed to identify,  
13 prevent, or respond to potential attacks upon a  
14 community's population or systems, facilities, or  
15 installations, but only to the extent that disclosure  
16 could reasonably be expected to expose the vulnerability  
17 or jeopardize the effectiveness of the measures, policies,  
18 or plans, or the safety of the personnel who implement  
19 them or the public. Information exempt under this item may  
20 include such things as details pertaining to the  
21 mobilization or deployment of personnel or equipment, to  
22 the operation of communication systems or protocols, to  
23 cybersecurity vulnerabilities, or to tactical operations.

24 (w) (Blank).

25 (x) Maps and other records regarding the location or  
26 security of generation, transmission, distribution,

1 storage, gathering, treatment, or switching facilities  
2 owned by a utility, by a power generator, or by the  
3 Illinois Power Agency.

4 (y) Information contained in or related to proposals,  
5 bids, or negotiations related to electric power  
6 procurement under Section 1-75 of the Illinois Power  
7 Agency Act and Section 16-111.5 of the Public Utilities  
8 Act that is determined to be confidential and proprietary  
9 by the Illinois Power Agency or by the Illinois Commerce  
10 Commission.

11 (z) Information about students exempted from  
12 disclosure under Section 10-20.38 or 34-18.29 of the  
13 School Code, and information about undergraduate students  
14 enrolled at an institution of higher education exempted  
15 from disclosure under Section 25 of the Illinois Credit  
16 Card Marketing Act of 2009.

17 (aa) Information the disclosure of which is exempted  
18 under the Viatical Settlements Act of 2009.

19 (bb) Records and information provided to a mortality  
20 review team and records maintained by a mortality review  
21 team appointed under the Department of Juvenile Justice  
22 Mortality Review Team Act.

23 (cc) Information regarding interments, entombments, or  
24 inurnments of human remains that are submitted to the  
25 Cemetery Oversight Database under the Cemetery Care Act or  
26 the Cemetery Oversight Act, whichever is applicable.

1           (dd) Correspondence and records (i) that may not be  
2 disclosed under Section 11-9 of the Illinois Public Aid  
3 Code or (ii) that pertain to appeals under Section 11-8 of  
4 the Illinois Public Aid Code.

5           (ee) The names, addresses, or other personal  
6 information of persons who are minors and are also  
7 participants and registrants in programs of park  
8 districts, forest preserve districts, conservation  
9 districts, recreation agencies, and special recreation  
10 associations.

11           (ff) The names, addresses, or other personal  
12 information of participants and registrants in programs of  
13 park districts, forest preserve districts, conservation  
14 districts, recreation agencies, and special recreation  
15 associations where such programs are targeted primarily to  
16 minors.

17           (gg) Confidential information described in Section  
18 1-100 of the Illinois Independent Tax Tribunal Act of  
19 2012.

20           (hh) The report submitted to the State Board of  
21 Education by the School Security and Standards Task Force  
22 under item (8) of subsection (d) of Section 2-3.160 of the  
23 School Code and any information contained in that report.

24           (ii) Records requested by persons committed to or  
25 detained by the Department of Human Services under the  
26 Sexually Violent Persons Commitment Act or committed to

1 the Department of Corrections under the Sexually Dangerous  
2 Persons Act if those materials: (i) are available in the  
3 library of the facility where the individual is confined;  
4 (ii) include records from staff members' personnel files,  
5 staff rosters, or other staffing assignment information;  
6 or (iii) are available through an administrative request  
7 to the Department of Human Services or the Department of  
8 Corrections.

9 (jj) Confidential information described in Section  
10 5-535 of the Civil Administrative Code of Illinois.

11 (kk) The public body's credit card numbers, debit card  
12 numbers, bank account numbers, Federal Employer  
13 Identification Number, security code numbers, passwords,  
14 and similar account information, the disclosure of which  
15 could result in identity theft or impersonation or defrauding  
16 of a governmental entity or a person.

17 (ll) Records concerning the work of the threat  
18 assessment team of a school district, including, but not  
19 limited to, any threat assessment procedure under the  
20 School Safety Drill Act and any information contained in  
21 the procedure.

22 (mm) Information prohibited from being disclosed under  
23 subsections (a) and (b) of Section 15 of the Student  
24 Confidential Reporting Act.

25 (nn) Proprietary information submitted to the  
26 Environmental Protection Agency under the Drug Take-Back

1 Act.

2 (oo) Records described in subsection (f) of Section  
3 3-5-1 of the Unified Code of Corrections.

4 (pp) Any and all information regarding burials,  
5 interments, or entombments of human remains as required to  
6 be reported to the Department of Natural Resources  
7 pursuant either to the Archaeological and Paleontological  
8 Resources Protection Act or the Human Remains Protection  
9 Act.

10 (qq) ~~(pp)~~ Reports described in subsection (e) of  
11 Section 16-15 of the Abortion Care Clinical Training  
12 Program Act.

13 (rr) ~~(pp)~~ Information obtained by a certified local  
14 health department under the Access to Public Health Data  
15 Act.

16 (ss) ~~(pp)~~ For a request directed to a public body that  
17 is also a HIPAA-covered entity, all information that is  
18 protected health information, including demographic  
19 information, that may be contained within or extracted  
20 from any record held by the public body in compliance with  
21 State and federal medical privacy laws and regulations,  
22 including, but not limited to, the Health Insurance  
23 Portability and Accountability Act and its regulations, 45  
24 CFR Parts 160 and 164. As used in this paragraph,  
25 "HIPAA-covered entity" has the meaning given to the term  
26 "covered entity" in 45 CFR 160.103 and "protected health



1 information" has the meaning given to that term in 45 CFR  
2 160.103.

3 (tt) Annual reports submitted by pharmacy benefit  
4 managers under Section 513b1.5 of the Illinois Insurance  
5 Code, except for the summary versions of the reports under  
6 paragraph (3) of subsection (b) of Section 513b1.5 of the  
7 Illinois Insurance Code.

8 (1.5) Any information exempt from disclosure under the  
9 Judicial Privacy Act shall be redacted from public records  
10 prior to disclosure under this Act.

11 (2) A public record that is not in the possession of a  
12 public body but is in the possession of a party with whom the  
13 agency has contracted to perform a governmental function on  
14 behalf of the public body, and that directly relates to the  
15 governmental function and is not otherwise exempt under this  
16 Act, shall be considered a public record of the public body,  
17 for purposes of this Act.

18 (3) This Section does not authorize withholding of  
19 information or limit the availability of records to the  
20 public, except as stated in this Section or otherwise provided  
21 in this Act.

22 (Source: P.A. 102-38, eff. 6-25-21; 102-558, eff. 8-20-21;  
23 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff.  
24 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982,  
25 eff. 7-1-23; 102-1055, eff. 6-10-22; 103-154, eff. 6-30-23;  
26 103-423, eff. 1-1-24; 103-446, eff. 8-4-23; 103-462, eff.

1 8-4-23; 103-540, eff. 1-1-24; 103-554, eff. 1-1-24; revised  
2 9-7-23.)

3 Section 10. The Illinois Insurance Code is amended by  
4 changing Section 513b1 and by adding Section 513b1.5 as  
5 follows:

6 (215 ILCS 5/513b1)

7 Sec. 513b1. Pharmacy benefit manager contracts.

8 (a) As used in this Section:

9 "340B drug discount program" means the program established  
10 under Section 340B of the federal Public Health Service Act,  
11 42 U.S.C. 256b.

12 "340B entity" means a covered entity as defined in 42  
13 U.S.C. 256b(a)(4) authorized to participate in the 340B drug  
14 discount program.

15 "340B pharmacy" means any pharmacy used to dispense 340B  
16 drugs for a covered entity, whether entity-owned or external.

17 "Biological product" has the meaning ascribed to that term  
18 in Section 19.5 of the Pharmacy Practice Act.

19 "Covered individual" means a member, participant,  
20 enrollee, contract holder, policyholder, or beneficiary of a  
21 health benefit plan who is provided a prescription drug  
22 benefit by the health benefit plan.

23 "Health benefit plan" means a policy, contract,  
24 certificate, or agreement entered into, offered, or issued by

1 an insurer to provide, deliver, arrange for, pay for, or  
2 reimburse any of the costs of physical, mental, or behavioral  
3 health care services. "Health benefit plan" does not include  
4 Medicaid managed care organizations, as defined in Section  
5 5-30.1 of the Illinois Public Aid Code, or employee welfare  
6 benefit plans subject to the federal Employee Retirement  
7 Income Security Act of 1974.

8 "Maximum allowable cost" means the maximum amount that a  
9 pharmacy benefit manager will reimburse a pharmacy for the  
10 cost of a drug.

11 "Maximum allowable cost list" means a list of drugs for  
12 which a maximum allowable cost has been established by a  
13 pharmacy benefit manager.

14 "Pharmacy benefit manager" means a person, business, or  
15 entity, including a wholly or partially owned or controlled  
16 subsidiary of a pharmacy benefit manager, that provides claims  
17 processing services or other prescription drug or device  
18 services, or both, for health benefit plans.

19 "Rebate aggregator" means a person or entity that  
20 negotiates rebates, discounts, or other fees attributable to  
21 usage by covered individuals with drug manufacturers on behalf  
22 of pharmacy benefit managers or their clients and may also be  
23 involved in contracts that entitle the rebate aggregator or  
24 its client to receive rebates, discounts, or other fees  
25 attributable to usage by covered individuals from drug  
26 manufacturers based on drug utilization or administration.

1 "Retail price" means the price an individual without  
2 prescription drug coverage would pay at a retail pharmacy, not  
3 including a pharmacist dispensing fee.

4 "Spread pricing" means the model of prescription drug  
5 pricing in which the pharmacy benefit manager charges a health  
6 benefit plan a contracted price for prescription drugs and the  
7 contracted price for the prescription drugs differs from the  
8 amount the pharmacy benefit manager directly or indirectly  
9 pays the pharmacist or pharmacy for pharmacist services.

10 "Steer" includes, but is not limited to:

11 (1) requiring a covered individual to use only a  
12 pharmacy, including a mail-order pharmacy, in which the  
13 pharmacy benefit manager maintains an ownership interest  
14 or control;

15 (2) offering or implementing a plan design that  
16 encourages a covered individual to use a pharmacy in which  
17 the pharmacy benefit manager maintains an ownership  
18 interest or control, if such plan design increases costs  
19 for the covered individual, including requiring a covered  
20 individual to pay full costs for a prescription if the  
21 covered individual chooses not to use a pharmacy owned or  
22 controlled by the pharmacy benefit manager;

23 (3) reimbursing a pharmacy or pharmacist for a  
24 pharmaceutical product or pharmacist service in an amount  
25 less than the amount that the pharmacy benefit manager  
26 reimburses itself or an affiliate for providing the same

1       product or services, unless the pharmacy or pharmacist  
2       contractually agrees to a lower reimbursement amount; or  
3       (4) any other actions determined by the Department by  
4       rule.

5       "Third-party payer" means any entity that pays for  
6       prescription drugs on behalf of a patient other than a health  
7       care provider or sponsor of a plan subject to regulation under  
8       Medicare Part D, 42 U.S.C. 1395w-101 et seq.

9       (b) A contract between a health insurer and a pharmacy  
10      benefit manager must require that the pharmacy benefit  
11      manager:

12           (1) Update maximum allowable cost pricing information  
13           at least every 7 calendar days.

14           (2) Maintain a process that will, in a timely manner,  
15           eliminate drugs from maximum allowable cost lists or  
16           modify drug prices to remain consistent with changes in  
17           pricing data used in formulating maximum allowable cost  
18           prices and product availability.

19           (3) Provide access to its maximum allowable cost list  
20           to each pharmacy or pharmacy services administrative  
21           organization subject to the maximum allowable cost list.  
22           Access may include a real-time pharmacy website portal to  
23           be able to view the maximum allowable cost list. As used in  
24           this Section, "pharmacy services administrative  
25           organization" means an entity operating within the State  
26           that contracts with independent pharmacies to conduct

1 business on their behalf with third-party payers. A  
2 pharmacy services administrative organization may provide  
3 administrative services to pharmacies and negotiate and  
4 enter into contracts with third-party payers or pharmacy  
5 benefit managers on behalf of pharmacies.

6 (4) Provide a process by which a contracted pharmacy  
7 can appeal the provider's reimbursement for a drug subject  
8 to maximum allowable cost pricing. The appeals process  
9 must, at a minimum, include the following:

10 (A) A requirement that a contracted pharmacy has  
11 14 calendar days after the applicable fill date to  
12 appeal a maximum allowable cost if the reimbursement  
13 for the drug is less than the net amount that the  
14 network provider paid to the supplier of the drug.

15 (B) A requirement that a pharmacy benefit manager  
16 must respond to a challenge within 14 calendar days of  
17 the contracted pharmacy making the claim for which the  
18 appeal has been submitted.

19 (C) A telephone number and e-mail address or  
20 website to network providers, at which the provider  
21 can contact the pharmacy benefit manager to process  
22 and submit an appeal.

23 (D) A requirement that, if an appeal is denied,  
24 the pharmacy benefit manager must provide the reason  
25 for the denial and the name and the national drug code  
26 number from national or regional wholesalers.

1 (E) A requirement that, if an appeal is sustained,  
2 the pharmacy benefit manager must make an adjustment  
3 in the drug price effective the date the challenge is  
4 resolved and make the adjustment applicable to all  
5 similarly situated network pharmacy providers, as  
6 determined by the managed care organization or  
7 pharmacy benefit manager.

8 (5) Allow a plan sponsor whose coverage is  
9 administered by the ~~contracting with a~~ pharmacy benefit  
10 manager an annual right to audit compliance with the terms  
11 of the contract by the pharmacy benefit manager,  
12 including, but not limited to, full disclosure of any and  
13 all rebate amounts secured, whether product specific or  
14 generalized rebates, that were provided to the pharmacy  
15 benefit manager by a pharmaceutical manufacturer.

16 (6) Allow a plan sponsor whose coverage is  
17 administered by the ~~contracting with a~~ pharmacy benefit  
18 manager to request that the pharmacy benefit manager  
19 disclose the actual amounts paid by the pharmacy benefit  
20 manager to the pharmacy.

21 (7) Provide notice to the plan sponsor and the party  
22 contracting with the pharmacy benefit manager of any  
23 consideration that the pharmacy benefit manager receives  
24 from the manufacturer for dispense as written  
25 prescriptions once a generic or biologically similar  
26 product becomes available.

1 (c) In order to place a particular prescription drug on a  
2 maximum allowable cost list, the pharmacy benefit manager  
3 must, at a minimum, ensure that:

4 (1) if the drug is a generically equivalent drug, it  
5 is listed as therapeutically equivalent and  
6 pharmaceutically equivalent "A" or "B" rated in the United  
7 States Food and Drug Administration's most recent version  
8 of the "Orange Book" or have an NR or NA rating by  
9 Medi-Span, Gold Standard, or a similar rating by a  
10 nationally recognized reference;

11 (2) the drug is available for purchase by each  
12 pharmacy in the State from national or regional  
13 wholesalers operating in Illinois; and

14 (3) the drug is not obsolete.

15 (d) A pharmacy benefit manager is prohibited from limiting  
16 a pharmacist's ability to disclose whether the cost-sharing  
17 obligation exceeds the retail price for a covered prescription  
18 drug, and the availability of a more affordable alternative  
19 drug, if one is available in accordance with Section 42 of the  
20 Pharmacy Practice Act.

21 (e) A health benefit plan insurer or pharmacy benefit  
22 manager shall not require a covered individual ~~an insured~~ to  
23 make a payment for a prescription drug at the point of sale in  
24 an amount that exceeds the lesser of:

25 (1) the applicable cost-sharing amount; or

26 (2) the retail price of the drug in the absence of



1 prescription drug coverage.

2 (f) Unless required by law, a contract between a pharmacy  
3 benefit manager or third-party payer and a 340B entity or 340B  
4 pharmacy shall not contain any provision that:

5 (1) distinguishes between drugs purchased through the  
6 340B drug discount program and other drugs when  
7 determining reimbursement or reimbursement methodologies,  
8 or contains otherwise less favorable payment terms or  
9 reimbursement methodologies for 340B entities or 340B  
10 pharmacies when compared to similarly situated non-340B  
11 entities;

12 (2) imposes any fee, chargeback, or rate adjustment  
13 that is not similarly imposed on similarly situated  
14 pharmacies that are not 340B entities or 340B pharmacies;

15 (3) imposes any fee, chargeback, or rate adjustment  
16 that exceeds the fee, chargeback, or rate adjustment that  
17 is not similarly imposed on similarly situated pharmacies  
18 that are not 340B entities or 340B pharmacies;

19 (4) prevents or interferes with an individual's choice  
20 to receive a covered prescription drug from a 340B entity  
21 or 340B pharmacy through any legally permissible means,  
22 except that nothing in this paragraph shall prohibit the  
23 establishment of differing copayments or other  
24 cost-sharing amounts within the health benefit plan for  
25 covered individuals ~~persons~~ who acquire covered  
26 prescription drugs from a nonpreferred or nonparticipating

1 provider;

2 (5) excludes a 340B entity or 340B pharmacy from a  
3 pharmacy network on any basis that includes consideration  
4 of whether the 340B entity or 340B pharmacy participates  
5 in the 340B drug discount program;

6 (6) prevents a 340B entity or 340B pharmacy from using  
7 a drug purchased under the 340B drug discount program; or

8 (7) any other provision that discriminates against a  
9 340B entity or 340B pharmacy by treating the 340B entity  
10 or 340B pharmacy differently than non-340B entities or  
11 non-340B pharmacies for any reason relating to the  
12 entity's participation in the 340B drug discount program.

13 As used in this subsection, "pharmacy benefit manager" and  
14 "third-party payer" do not include pharmacy benefit managers  
15 and third-party payers acting on behalf of a Medicaid program  
16 or an employee welfare benefit plan subject to the federal  
17 Employee Retirement Income Security Act of 1974.

18 (f-5) A pharmacy benefit manager or an affiliate acting on  
19 the pharmacy benefit manager's behalf is prohibited from  
20 conducting spread pricing in this State.

21 (f-10) A pharmacy benefit manager or an affiliate acting  
22 on the pharmacy benefit manager's behalf shall not steer a  
23 covered individual.

24 (f-15) A pharmacy benefit manager or an affiliate acting  
25 on the pharmacy benefit manager's behalf must remit 100% of  
26 rebates and fees to the health benefit plan sponsor, consumer,

1 or employer. Records of rebates and fees remitted from the  
2 pharmacy benefit manager or its contracted party shall be  
3 retained for 7 years.

4 (f-20) A pharmacy benefit manager may not reimburse a  
5 pharmacy or pharmacist for a prescription drug or pharmacy  
6 service in an amount less than the national average drug  
7 acquisition cost for the prescription drug or pharmacy service  
8 at the time the drug is administered or dispensed, plus a  
9 professional dispensing fee of \$10.49. However, if the  
10 national average drug acquisition cost is not available at the  
11 time a drug is administered or dispensed, a pharmacy benefit  
12 manager may not reimburse in an amount that is less than the  
13 wholesale acquisition cost of the drug, as defined in 42  
14 U.S.C. 1395w-3a(c)(6)(B), plus a professional dispensing fee  
15 of \$10.49.

16 (f-25) A pharmacy benefit manager or an affiliate acting  
17 on the pharmacy benefit manager's behalf is prohibited from  
18 limiting a covered individual's access to prescription drugs  
19 from a pharmacy or pharmacist enrolled with the health benefit  
20 plan under the terms offered to all pharmacies in the plan  
21 coverage area by unreasonably designating the covered  
22 prescription drugs as a specialty drug.

23 (f-30) The contract between the pharmacy benefit manager  
24 and the insurer or health benefit plan sponsor must allow and  
25 provide for the pharmacy benefit manager's compliance with an  
26 audit at least once per calendar year of the rebate and fee

1 records remitted from a pharmacy benefit manager or its  
2 contracted party to a health benefit plan. Contracts with  
3 rebate aggregators or drug manufactures must be available for  
4 audit by health benefit plan sponsors or designated third  
5 parties at least once per plan year. Audits shall be performed  
6 by an auditor selected by the health benefit plan sponsor.  
7 Rebate contracts with rebate aggregators or drug manufactures  
8 shall be available for audit by health benefit plan sponsors.

9 (g) A violation of this Section by a pharmacy benefit  
10 manager constitutes an unfair or deceptive act or practice in  
11 the business of insurance under Section 424.

12 (h) A provision that violates subsection (f) in a  
13 contract between a pharmacy benefit manager or a third-party  
14 payer and a 340B entity that is entered into, amended, or  
15 renewed after July 1, 2022 shall be void and unenforceable.

16 (i)(1) A pharmacy benefit manager may not retaliate  
17 against a pharmacist or pharmacy for disclosing information in  
18 a court, in an administrative hearing, before a legislative  
19 commission or committee, or in any other proceeding, if the  
20 pharmacist or pharmacy has reasonable cause to believe that  
21 the disclosed information is evidence of a violation of a  
22 State or federal law, rule, or regulation.

23 (2) A pharmacy benefit manager may not retaliate against a  
24 pharmacist or pharmacy for disclosing information to a  
25 government or law enforcement agency, if the pharmacist or  
26 pharmacy has reasonable cause to believe that the disclosed

1 information is evidence of a violation of a State or federal  
2 law, rule, or regulation.

3 (3) A pharmacist or pharmacy shall make commercially  
4 reasonable efforts to limit the disclosure of confidential and  
5 proprietary information.

6 (4) Retaliatory actions against a pharmacy or pharmacist  
7 include cancellation of, restriction of, or refusal to renew  
8 or offer a contract to a pharmacy solely because the pharmacy  
9 or pharmacist has:

10 (A) made disclosures of information that the  
11 pharmacist or pharmacy has reasonable cause to believe is  
12 evidence of a violation of a State or federal law, rule, or  
13 regulation;

14 (B) filed complaints with the plan or pharmacy benefit  
15 manager; or

16 (C) filed complaints against the plan or pharmacy  
17 benefit manager with the Department.

18 (j) This Section applies to contracts entered into or  
19 renewed on or after July 1, 2022.

20 (k) This Section applies to any health benefit ~~group or~~  
21 ~~individual policy of accident and health insurance or managed~~  
22 ~~care~~ plan that provides coverage for prescription drugs and  
23 that is amended, delivered, issued, or renewed on or after  
24 July 1, 2020.

25 (Source: P.A. 102-778, eff. 7-1-22; 103-154, eff. 6-30-23;  
26 103-453, eff. 8-4-23.)

1 (215 ILCS 5/513b1.5 new)

2 Sec. 513b1.5. Pharmacy benefit manager reporting  
3 requirements.

4 (a) A pharmacy benefit manager that provides services for  
5 a health benefit plan must submit an annual report, by no later  
6 than September 1, to the health benefit plan sponsor and  
7 issuer and include the following:

8 (1) information collected from drug manufacturers on  
9 copayment assistance;

10 (2) a list of drugs covered by the health benefit  
11 plan, including details such as the brand name, generic  
12 name, number of participants, number of prescription  
13 claims, dosage units, dispensing channel used, wholesale  
14 acquisition cost, net cost, and total out-of-pocket  
15 spending by covered individual;

16 (3) information on each therapeutic class of drugs;

17 (4) the amount received by the health benefit plan in  
18 rebates, fees, or discounts related to drug utilization or  
19 spending;

20 (5) total gross spending on prescription drugs;

21 (6) total net spending on prescription drugs by the  
22 health benefit plan;

23 (7) any compensation paid to brokers, consultants,  
24 advisors, or any other individual or firm for referrals,  
25 consideration, or retention by the health benefit plan;

1       and

2           (8) an explanation of benefit design parameters  
3       encouraging or requiring covered individuals to use  
4       affiliated pharmacies, the percentage of prescriptions  
5       charged by these pharmacies, and a list of drugs dispensed  
6       by affiliated pharmacies with their associated costs.

7       (b) Annual reports submitted pursuant to subsection (a):

8           (1) must be written in plain language to ensure ease  
9       of reading and accessibility;

10          (2) may only contain summary health information to  
11       ensure plan, coverage, or covered individual information  
12       remains private and confidential;

13          (3) upon request by a covered individual, must be  
14       available in summary format and provide aggregated  
15       information to help covered individuals understand their  
16       health benefit plan's prescription drug coverage; and

17          (4) must be filed with the Department no later than  
18       September 1 of each year via the System for Electronic  
19       Rates & Forms Filing. The filing shall include the summary  
20       version of the report described in paragraph (3) of this  
21       subsection, which shall be marked for public access.

22       (c) A pharmacy benefit manager may petition the Department  
23       for a filing submission extension. The Director may grant or  
24       deny the extension within 5 business days.

25       (d) Failure by a pharmacy benefit manager to submit an  
26       annual report to the Department may result in a fine levied by

1 the Director not to exceed \$1,000 per day. Funds derived from  
2 finer levied shall be deposited into the Insurance Producer  
3 Administration Fund. Fine information shall be posted on the  
4 Department's website.

5 (e) A pharmacy benefit manager found in violation of  
6 subsection (a) or paragraph (4) of subsection (b) may request  
7 a hearing from the Director within 10 days after being found in  
8 violation.

9 (f) Except for the summary versions, the annual reports  
10 submitted by pharmacy benefit managers are considered  
11 confidential and privileged for all purposes, including for  
12 purposes of the Freedom of Information Act, a response to a  
13 subpoena, or evidence in a civil action.

14 (g) A copy of an adverse decision against a pharmacy  
15 benefit manager for failing to submit an annual report to the  
16 Department must be posted to the Department's website.

17 Section 99. Effective date. This Act takes effect July 1,  
18 2024."