As Introduced

136th General Assembly
Regular Session
2025-2026

S. B. No. 160

Senators Liston, Johnson

A BILL

To enact section 3902.65 of the Revised Code regarding prescription drugs and medication switching.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3902.65 of the Revised Code be enacted to read as follows:

Sec. 3902.65. (A) As used in this section:

(1) "Interchangeable biological product" and "generically equivalent drug" have the same meanings as in section 3715.01 of the Revised Code.

(2) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Rate of inflation" has the same meaning as in section 107.032 of the Revised Code.

(4) "Wholesale acquisition cost" has the same meaning as in 42 U.S.C. 1395w-3a.

(B) Notwithstanding section 3901.71 of the Revised Code, but subject to divisions (C) and (D) of this section, with

regard to health benefit plans amended, issued, or renewed on or after the effective date of this section, a health plan issuer shall not do any of the following during a plan year:

(1) Increase a covered person's burden of cost-sharing with respect to a drug;

(2) Move a drug to a more restrictive tier of a health benefit plan's formulary;

(3) Remove a drug from a health benefit plan's formulary unless one of the following occurred:

(a) The United States food and drug administration issued a statement about the drug calling into question the clinical safety of the drug.

(b) The drug manufacturer notified the United States food and drug administration of a permanent discontinuance or interruption of the manufacture of the drug as required by 21 U.S.C. 356c.

(c) The drug manufacturer has removed the drug from sale in the United States.

(4) Limit or reduce coverage of a drug with respect to a covered person in any other way, including subjecting it to a prior authorization requirement.

(C) This section shall not be construed to do any of the following:

(1) Prevent a health plan issuer from adding a drug to its formulary;

(2) Prevent a health plan issuer from removing a drug from its formulary if the drug manufacturer has removed the drug from

sale in the United States;

(3) Prevent a health care provider from prescribing another drug covered by the health benefit plan that the provider considers medically appropriate for the covered person;

(4) In the case of a prescribed drug for which a generically equivalent drug or interchangeable biological product is available, prevent any of the following:

(a) A pharmacist from substituting the generically equivalent drug or interchangeable biological product for the prescribed drug in accordance with section 4729.38 of the Revised Code;

(b) A health plan issuer from requiring a covered person to use the generically equivalent drug or interchangeable biological product instead of the prescribed drug, even when the equivalent or product becomes available during a plan year;

(c) A covered person from using the generically equivalent drug or interchangeable drug product instead of the prescribed drug, even when the equivalent or product becomes available during a plan year.

(5) Prevent a pharmacist from substituting for a prescribed epinephrine autoinjector another epinephrine autoinjector pursuant to section 4729.382 of the Revised Code.

(D) If, at any point during a plan year, the wholesale acquisition cost for a drug increases by more than five per cent plus the rate of inflation, as compared to the average wholesale acquisition cost for the previous plan year, division (C) of this section does not apply to that drug for the remainder of the plan year.

(E) A violation of this section shall be considered an unfair and deceptive practice in the business of insurance for the purposes of section 3901.21 of the Revised Code.