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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Substitute Bill Comparative Synopsis

**Sub. H.B. 229**

**136<sup>th</sup> General Assembly**

House General Government

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_136_1288-1)	Latest Version (I_136_1288-4)
<b>Fiduciary duty</b>	
<p>Requires any agreement between a health insurer and a pharmacy benefit manager (PBM) for services related to prescription drug benefits under a health insurance plan to deem the PBM the insurer's agent, owing the insurer a fiduciary duty of care in performing those duties (<i>R.C. 3957.10</i>).</p> <p>Regarding the Superintendent of Insurance's authority to suspend, revoke, or refuse to renew a PBM license or impose a monetary fine against a licensed PBM if the Superintendent finds that the PBM has engaged in enumerated prohibited conduct, includes as prohibited</p>	<p>No provision.</p> <p>Removes the requirement that the premiums or contributions be held by the PBM <i>in a fiduciary capacity</i> (<i>R.C. 3957.10(A)(4)</i>).</p>

Previous Version (I_136_1288-1)	Latest Version (I_136_1288-4)
conduct: misappropriating for the PBM’s own use or improperly withholding insurance premiums or contributions held by the PBM in a fiduciary capacity ( <i>R.C. 3957.10(A)(4)</i> ).	
<b>Exception</b>	
Clarifies that the bill’s requirements do not apply to “administrators” licensed under existing law to provide PBM services for a health insurer affiliated with the administrator or self-funded employee benefit plan, if those services are not offered on a standalone basis ( <i>R.C. 3957.17</i> ).	No provision.
<b>Definition of “rebate”</b>	
<p>As used in the bill’s provisions (1) requiring PBMs to account to the health insurer rebates or other benefits the PBM received and (2) permitting the Superintendent of Insurance to examine the books and records of each PBM as necessary to determine information in PBM contracts, defines “rebate” as:</p> <p>A discount or other price concession, or a payment that is (a) based on utilization of a prescription drug and (2) paid by a manufacturer or third party directly or indirectly to a PBM, pharmacy services administrative organization, or pharmacy after a pharmacy claim has been processed and paid.</p> <p>Includes as rebates: incentives, disbursements, and reasonable estimates of a volume-based discount; incentives or credits, regardless of market share incentives, promotional allowances, commissions, grants, or other similar incentives; and bona fide fees, such as administrative or corporate fees, a vendor receives from a</p>	<p>Modifies the definition as follows:</p> <p>Narrows (a) to utilization of a prescription drug for use <i>in Ohio</i>; limits (b) to discounts or payments made by a manufacturer directly to a PBM (<i>R.C. 3957.01(G)</i>).</p> <p>No provision.</p>

Previous Version (I_136_1288-1)	Latest Version (I_136_1288-4)
<p>manufacturer for administrative costs, including formulary placement and access.</p> <p>Excludes from rebates: pharmacy purchase discounts and related service fees a vendor receives from a manufacturer or third party that are attributable to purchase of a product through the vendor's affiliated mail order and specialty pharmacies (<i>R.C. 3957.01(G)</i>).</p>	<p>No provision.</p>
<b>Reimbursement rates</b>	
<p>Prohibits a PBM or its representatives from reimbursing a pharmacy or pharmacist in Ohio an amount less than the PBM reimburses a PBM affiliate for providing the same service (<i>R.C. 5167.14(B)(2)</i>).</p>	<p>Narrows the prohibition to reimbursing a pharmacy or pharmacist in Ohio an amount less than the PBM reimburses a PBM affiliate <i>in Ohio</i> (<i>R.C. 5167.14(B)(2)</i>).</p>