



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1150

H.P. 788

House of Representatives, March 31, 2015

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**An Act Regarding Maximum Allowable Cost Pricing Lists Used by  
Pharmacy Benefit Managers**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BROOKS of Lewiston.  
Cosponsored by Senator WHITEMORE of Somerset and  
Representatives: BEAVERS of South Berwick, BECK of Waterville, MORRISON of South  
Portland, NUTTING of Oakland, PICCHIOTTI of Fairfield, PRESCOTT of Waterboro,  
ROTUNDO of Lewiston, Senator: KATZ of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4317, sub-§12** is enacted to read:

3 **12. Maximum allowable cost.** This subsection governs the maximum allowable  
4 cost for a prescription drug as determined by a pharmacy benefits manager.

5 A. As used in this subsection, unless the context otherwise indicates, the following  
6 terms have the following meanings.

7 (1) "Maximum allowable cost" means the maximum amount that a pharmacy  
8 benefits manager pays toward the cost of a prescription drug.

9 (2) "Nationally available" means available to all pharmacies in this State for  
10 purchase, without limitation, from regional or national wholesalers and not  
11 obsolete or temporarily available.

12 (3) "Therapeutically equivalent drug substitute" means a prescription drug  
13 identified as therapeutically or pharmaceutically equivalent to another  
14 prescription drug as evidenced by an "A" code in the most recent version of the  
15 United States Food and Drug Administration's "Approved Drug Products with  
16 Therapeutic Equivalence Evaluations," also known as "the Orange Book," or an  
17 equivalent rating from a successor publication.

18 B. A pharmacy benefits manager may set a maximum allowable cost for a  
19 prescription drug, or allow a prescription drug to continue on a maximum allowable  
20 cost list, only if that prescription drug is nationally available and has 3 or more  
21 nationally available therapeutically equivalent drug substitutes with a significant cost  
22 difference.

23 C. A pharmacy benefits manager shall remove or modify a maximum allowable cost  
24 for a prescription drug as necessary for the cost of the prescription drug to remain  
25 consistent with changes to such costs in the national marketplace for prescription  
26 drugs. A removal or modification made under this paragraph must be made in a  
27 timely fashion.

28 D. A pharmacy benefits manager shall disclose to a pharmacy for which the  
29 pharmacy benefits manager processes claims, makes payment of claims or procures  
30 drugs:

31 (1) By January 1st, the basis of the methods and the sources used to establish the  
32 maximum allowable costs used by the pharmacy benefits manager;

33 (2) Promptly, by written notification, any change made to a maximum allowable  
34 cost; and

35 (3) At least once every 7 days, the maximum allowable costs used by the  
36 pharmacy benefits manager.

37 E. A pharmacy benefits manager shall disclose to a carrier with which the pharmacy  
38 benefits manager has entered into a contract:

39 (1) By January 1st, the basis of the methods and the sources used to establish the  
40 maximum allowable costs used by the pharmacy benefits manager;

