

- 1 (4) The State should use its purchasing power to assist residents who
2 qualify for prescription drug benefits under State administered health
3 care programs in obtaining prescription drugs at a reasonable cost.

4 **"§ 143-736. Definitions.**

5 As used in this Article, unless the context clearly requires otherwise:

- 6 (1) 'Executive director' means the Executive Director of the Program.
7 (2) 'Pharmaceutical benefits manager' or 'PBM' means an entity that
8 procures prescription drugs at a negotiated rate under a contract and
9 that may serve as a third-party prescription drug benefit administrator.
10 (3) 'Prescription drug purchasing agreement' means a written agreement to
11 pool prescription drug purchases in order to negotiate the best possible
12 prices and to delegate authority to make prescription drug contracts for
13 these purchases.
14 (4) 'Prescription drug', 'pharmaceutical', or 'drug' means a substance
15 recognized as a drug in the United States Pharmacopoeia, the National
16 Formulary, or the Homeopathic Pharmacopoeia of the United States,
17 or any supplement thereto, that is dispensed pursuant to a prescription
18 issued by an authorized health care practitioner for use in the
19 diagnosis, cure, mitigation, treatment, or prevention of disease in a
20 human, as well as a prescription drug delivery system, testing kit, and
21 related supplies.
22 (5) 'Program' means the Prescription Drug Benefit Purchasing Program
23 established under this Part.
24 (6) 'Purchasing' or 'purchase' means paying for or reimbursing for
25 prescription drugs covered under a State administered health care
26 program. 'Purchasing' or 'purchase' does not mean maintaining an
27 inventory of prescription drugs for dispensing to State health care
28 program beneficiaries.

29 **"§ 143-737. Prescription Drug Benefit Purchasing Program established.**

30 (a) There is established in the Office of the Governor the Prescription Drug
31 Benefit Purchasing Program. The purpose of the Program is to achieve savings in State
32 expenditures for prescription drug benefits through price negotiation based on volume
33 purchasing for all State agencies that administer prescription drug benefits under State
34 health care programs. Except as otherwise provided by law, the following State agencies
35 shall participate in the Program.

- 36 (1) The Department of Correction.
37 (2) The Department of Health and Human Services.
38 (3) The Department of Juvenile Justice and Delinquency Prevention.
39 (4) The Teachers' and State Employees' Comprehensive Major Medical
40 Plan.

41 An agency listed in this subsection may elect not to participate in the Program only
42 if the agency is able to contract for the purchase of pharmaceuticals for a lower price
43 than available through the Program. An agency electing not to participate shall report to

1 the Executive Director the price of any pharmaceutical purchased and the name of the
2 wholesaler, retailer, or manufacturer selling the pharmaceuticals.

3 (b) Any State department, agency, institution, or program other than those listed
4 in subsection (a) of this section, and any political subdivision of the State, may elect to
5 participate in the Program.

6 (c) Any business group, hospital, hospital association, or other private entity may
7 elect to participate in the Program.

8 **"§ 143-738. Prescription Drug Benefit Purchasing Program; executive director.**

9 (a) The Governor shall appoint and set the salary of the Executive Director of the
10 Program, who shall serve at the pleasure of the Governor.

11 (b) The Executive Director may employ such clerical and professional personnel
12 as necessary to administer the Program.

13 **"§ 143-739. Pharmaceutical benefits manager.**

14 (a) The Executive Director shall contract with a pharmaceutical benefits manager
15 for purposes of negotiating prices for and administering prescription drug benefits
16 provided under State health care programs. The pharmaceutical benefits manager shall
17 do all of the following:

18 (1) Negotiate with prescription drug manufacturers price discounts on
19 prescription drugs purchased under State health care programs.

20 (2) At the option of any entity specified in G.S. 143-737, execute
21 prescription drug purchasing agreements with the entity.

22 (3) At the option of any private entity, execute prescription drug
23 purchasing agreements with that entity, including a self-funded benefit
24 plan and business association, for combined purchasing of pharmacy
25 benefits management services or pharmaceutical products. No private
26 entity may be compelled to participate in the Program.

27 (4) Establish other cost containment measures for prescription drug
28 benefits that the PBM determines will generate cost savings and
29 maintain drug treatment efficacy.

30 (b) The PBM may negotiate and execute pharmaceutical benefits management
31 contracts for the purpose of managing rising prescription drug costs for the State and all
32 parties that have executed prescription drug purchasing agreements with the Program.

33 **"§ 143-740. Contracts reviewed by Office of State Budget and Management.**

34 The Office of State Budget and Management shall review any purchasing
35 agreement, proposed contract, or amendment to an existing contract, authorized by this
36 Article before the agreement or contract is executed. If the Office of State Budget and
37 Management makes the following findings, the Office shall approve the agreement or
38 contract:

39 (1) The proposed contract meets the requirements of this Article and
40 would assist in effectively managing State expenditures for
41 prescription drugs for the health care programs involved.

42 (2) The proposed contract would not adversely affect State funds or funds
43 due the State.

44 **"§ 143-741. Program funds subject to audit.**

1 The State Auditor shall audit funds expended pursuant to any prescription drug
2 purchasing agreement or pharmaceutical benefits management contract executed under
3 this Article for each fiscal year that the agreement or contract is in effect. The Executive
4 Director shall provide information and documents requested by the State Auditor
5 pursuant to this section. The State Auditor shall report the results of the audit to the
6 General Assembly and the Governor upon completion of the audit, but not later than
7 December 31, after the end of the fiscal year subject to the audit.

8 **"§ 143-742. Strategies for managing increases in prescription drug costs.**

9 The Executive Director, in consultation with the PBM, shall explore innovative
10 strategies by which the State may manage the increasing costs of prescription drugs and
11 increase access to prescription drugs for all of the State's citizens, including by any of
12 the following means:

- 13 (1) Adopting fair prescription drug pricing policies.
- 14 (2) Providing for discount policies or rebate programs for seniors and
15 persons without prescription drug insurance coverage.
- 16 (3) Coordinating programs offered by pharmaceutical manufacturers that
17 provide prescription drugs for free or at reduced prices.
- 18 (4) Establishing programs aimed at educating health care practitioners
19 authorized to prescribe prescription drugs about the relative costs and
20 benefits of various prescription drugs, with an emphasis on generic
21 substitution for brand-name drugs when available and appropriate,
22 prescribing older, less costly drugs instead of newer, more expensive
23 drugs when appropriate, and prescribing lower dosages of prescription
24 drugs when available and appropriate.
- 25 (5) Studying the feasibility and appropriateness of requiring prescription
26 drug manufacturers to disclose to the State expenditures for
27 advertising, marketing, and promotion, as well as for provider
28 incentives and research and development efforts.
- 29 (6) Studying the feasibility and appropriateness of executing prescription
30 drug purchasing agreements with large private sector purchasers of
31 prescription drugs and including those private entities in pharmacy
32 benefit management contracts.
- 33 (7) Studying the feasibility and appropriateness of authorizing the
34 establishment of voluntary private buying clubs, cooperatives, or
35 purchasing alliances comprised of small businesses or individuals for
36 the purpose of purchasing prescription drugs at optimal prices.
- 37 (8) Implementing other strategies, as permitted under State and federal
38 law, aimed at managing prescription drug prices and increasing
39 affordable access to prescription drugs for all State citizens.

40 The Executive Director shall also explore the feasibility of contracting with the PBM
41 to manage clinical programs such as disease management programs, drug utilization
42 review, and long-term care intervention. If the Executive Director finds that contracting
43 with the PBM to manage clinical programs will generate cost savings to the State and

1 maintain quality and integrity in health program benefits, the Executive Director may
2 execute a contract for this purpose in accordance with this Article.

3 **"§ 143-743. Pharmaceutical manufacturers to file information with Executive**
4 **Director.**

5 (a) A person who manufactures a drug, including a person who manufactures a
6 generic drug, that is sold in this State shall file with the Executive Director, annually or
7 more frequently as determined by the Executive Director, the following:

8 (1) The average manufacturer price for the drug.

9 (2) The price that each wholesaler in this State pays the manufacturer to
10 purchase the drug.

11 (b) As used in this section, "average manufacturer price" means the average price
12 paid to the manufacturer for a drug in the United States by wholesalers for drugs
13 distributed to the retail pharmacy class of trade, after deducting customary prompt pay
14 discounts.

15 (c) The Executive Director and the Attorney General may investigate the
16 manufacturer to determine the accuracy of the information provided under this section.
17 The Attorney General may take appropriate action to enforce this section.

18 **"§ 143-744. Wholesalers to file information upon request.**

19 (a) Upon the request of the Executive Director, a person who engages in the
20 wholesale distribution of drugs in this State shall file with the Executive Director
21 information showing the actual price at which the wholesale distributor sells a particular
22 drug to a retail pharmacy.

23 (b) The Attorney General may investigate the distributor to determine the
24 accuracy of the information provided under this section. The Attorney General may take
25 appropriate action to enforce this section."

26 **SECTION 2.** There is appropriated from the General Fund to the
27 Department of Administration the sum of two hundred thousand dollars (\$200,000) for
28 the 2005-2006 fiscal year and the sum of two hundred thousand dollars (\$200,000) for
29 the 2006-2007 fiscal year. These funds shall be used to develop and administer the
30 Prescription Drug Bulk Purchasing Program enacted by this act.

31 **SECTION 3.** Section 2 of this act becomes effective July 1, 2005. The
32 remainder of this act is effective when it becomes law.