

*Mike Braun*

Braun S.1339 Amendment #4, as modified

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To require the Secretary of Labor to conduct a study on the fiduciary duties of pharmacy benefit managers.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.**

**S. 1339**

To provide for increased oversight of entities that provide pharmacy benefit management services on behalf of group health plans and health insurance coverage.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BRAUN (for himself and Mr. MARSHALL)

Viz:

- 1 At the appropriate place, insert the following:
- 2 **SEC. \_\_\_\_ . STUDY ON FIDUCIARY DUTIES OF PHARMACY**
- 3 **BENEFIT MANAGERS.**
- 4 (a) IN GENERAL.—The Secretary of Labor shall con-
- 5 duct, and submit to Congress a report describing the re-
- 6 sults of, a study on the impacts of a change in policy de-
- 7 scribed in subsection (b).
- 8 (b) POLICY DESCRIBED.—Under a policy referred to
- 9 in subsection (a)—

1           (1) an entity providing pharmacy benefit man-  
2           agement services would be considered a fiduciary  
3           within the meaning of section 3(21) of the Employee  
4           Retirement Income Security Act of 1974 (29 U.S.C.  
5           1002(21)) with respect to a group health or group  
6           health insurance coverage; and

7           (2) such an entity would—

8                   (A) be subject to the responsibilities, obli-  
9                   gations, and duties imposed on fiduciaries  
10                  under part 4 of such Act of subtitle B of title  
11                  I of such Act (29 U.S.C. 1101 et seq.); and

12                   (B) make the required fiduciary disclosure  
13                  under section 408(b)(2)(B)(iii) of such Act (29  
14                  U.S.C. 1108(b)(2)(B)(iii)) with respect to the  
15                  pharmacy benefit management services provided  
16                  to the plan or coverage.

17           (c) DEFINITION OF PHARMACY BENEFIT MANAGE-  
18           MENT SERVICES.—In this section, the term “pharmacy  
19           benefit management services” means services related to—

20                   (1) negotiating prices with respect to prescrip-  
21                   tion drugs on behalf of a group health plan or health  
22                   insurance issuer offering group health insurance cov-  
23                   erage; and

24                   (2) managing the prescription drug benefits  
25                  provided by such plan or coverage, including design-

1       ing and implementing a drug formulary, the proc-  
2       essing and payment of claims for prescription drugs,  
3       the performance of drug utilization review, the proc-  
4       essing of drug prior authorization requests, the adju-  
5       dication of appeals or grievances related to the pre-  
6       scription drug benefit, contracting with network  
7       pharmacies, controlling the cost of covered prescrip-  
8       tion drugs, or the provision of related services.