

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2124

By: McEntire

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8 COMMITTEE SUBSTITUTE

9 An Act relating to professions and occupations;
10 amending Section 1, Chapter 263, O.S.L. 2014, as
11 amended by Section 7, Chapter 285, O.S.L. 2016 (59
12 O.S. Supp. 2020, Section 357), which relates to
13 definitions; defining term; amending Section 2,
14 Chapter 263, O.S.L. 2014 (59 O.S. Supp. 2020, Section
15 358), which relates to pharmacy benefits management
16 licensure; modifying the licensing entity; providing
17 for the levying of charges, fees, civil penalties or
18 restitution; declaring an emergency; and providing
19 for contingent effect.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY Section 1, Chapter 263, O.S.L.
22 2014, as amended by Section 7, Chapter 285, O.S.L. 2016 (59 O.S.
23 Supp. 2020, Section 357), is amended to read as follows:

24 Section 357. As used in this act:

1. "Commission" or "Pharmacy Choice Commission" means the
Patient's Right to Pharmacy Choice Commission established by Section
6966 of Title 36 of the Oklahoma Statutes;

1 2. "Covered entity" means a nonprofit hospital or medical
2 service organization, insurer, health coverage plan or health
3 maintenance organization; a health program administered by the state
4 in the capacity of provider of health coverage; or an employer,
5 labor union, or other entity organized in the state that provides
6 health coverage to covered individuals who are employed or reside in
7 the state. This term does not include a health plan that provides
8 coverage only for accidental injury, specified disease, hospital
9 indemnity, disability income, or other limited benefit health
10 insurance policies and contracts that do not include prescription
11 drug coverage;

12 ~~2.~~ 3. "Covered individual" means a member, participant,
13 enrollee, contract holder or policy holder or beneficiary of a
14 covered entity who is provided health coverage by the covered
15 entity. A covered individual includes any dependent or other person
16 provided health coverage through a policy, contract or plan for a
17 covered individual;

18 ~~3.~~ 4. "Department" means the Oklahoma Insurance Department;

19 ~~4.~~ 5. "Maximum allowable cost" or "MAC" means the list of drug
20 products delineating the maximum per-unit reimbursement for
21 multiple-source prescription drugs, medical product or device;

22 ~~5.~~ 6. "Multisource drug product reimbursement" (reimbursement)
23 means the total amount paid to a pharmacy inclusive of any reduction
24 in payment to the pharmacy, excluding prescription dispense fees;

1 ~~6.~~ 7. "Pharmacy benefits management" means a service provided
2 to covered entities to facilitate the provision of prescription drug
3 benefits to covered individuals within the state, including
4 negotiating pricing and other terms with drug manufacturers and
5 providers. Pharmacy benefits management may include any or all of
6 the following services:

- 7 a. claims processing, retail network management and
8 payment of claims to pharmacies for prescription drugs
9 dispensed to covered individuals,
- 10 b. clinical formulary development and management
11 services,
- 12 c. rebate contracting and administration,
- 13 d. certain patient compliance, therapeutic intervention
14 and generic substitution programs, or
- 15 e. disease management programs;

16 ~~7.~~ 8. "Pharmacy benefits manager" or "PBM" means a person,
17 business or other entity that performs pharmacy benefits management.
18 The term includes a person or entity acting for a PBM in a
19 contractual or employment relationship in the performance of
20 pharmacy benefits management for a managed care company, nonprofit
21 hospital, medical service organization, insurance company, third-
22 party payor, or a health program administered by an agency of this
23 state;

1 ~~8.~~ 9. "Plan sponsor" means the employers, insurance companies,
2 unions and health maintenance organizations or any other entity
3 responsible for establishing, maintaining, or administering a health
4 benefit plan on behalf of covered individuals; and

5 ~~9.~~ 10. "Provider" means a pharmacy licensed by the State Board
6 of Pharmacy, or an agent or representative of a pharmacy, including,
7 but not limited to, the pharmacy's contracting agent, which
8 dispenses prescription drugs or devices to covered individuals.

9 SECTION 2. AMENDATORY Section 2, Chapter 263, O.S.L.
10 2014 (59 O.S. Supp. 2020, Section 358), is amended to read as
11 follows:

12 Section 358. A. In order to provide pharmacy benefits
13 management or any of the services included under the definition of
14 pharmacy benefits management in this state, a pharmacy benefits
15 manager or any entity acting as one in a contractual or employment
16 relationship for a covered entity shall first obtain a license from
17 the Pharmacy Choice Commission of the Oklahoma Insurance Department,
18 and the ~~Department~~ Commission may charge a fee for such licensure.

19 B. The ~~Department~~ Pharmacy Choice Commission shall establish,
20 by regulation, licensure procedures, required disclosures for
21 pharmacy benefits managers (PBMs) and other rules as may be
22 necessary for carrying out and enforcing the provisions of this act.
23 The licensure procedures shall, at a minimum, include the completion
24 of an application form that shall include the name and address of an

1 agent for service of process, the payment of a requisite fee, and
2 evidence of the procurement of a surety bond.

3 C. The ~~Department~~ Pharmacy Choice Commission may subpoena
4 witnesses and information. Its compliance officers may take and
5 copy records for investigative use and prosecutions. Nothing in
6 this subsection shall limit the Office of the Attorney General from
7 using its investigative demand authority to investigate and
8 prosecute violations of the law.

9 D. The ~~Department~~ Pharmacy Choice Commission may suspend,
10 revoke or refuse to issue or renew a license for noncompliance with
11 any of the provisions hereby established or with the rules
12 promulgated by the ~~Department~~ Commission; for conduct likely to
13 mislead, deceive or defraud the public or the ~~Department~~ Commission;
14 for unfair or deceptive business practices or for nonpayment of a
15 renewal fee or fine. The ~~Department~~ Commission may also levy
16 administrative charges, fees, civil penalties, restitution or fines
17 for each count of which a licensee has been convicted in a
18 ~~Department~~ Commission hearing.

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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1 SECTION 4. The provisions of this act shall be contingent upon
2 the enactment of Enrolled House Bill No. 2123 of the 1st Session of
3 the 58th Oklahoma Legislature.

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