

1 ENGROSSED HOUSE  
2 BILL NO. 2124

By: McEntire, Townley, Frix,  
Grego, Moore, Pae, Boles,  
Johns, Phillips, Lawson,  
Burns, Hilbert, Sterling,  
Roe and Caldwell (Chad) of  
the House

5 and

6 McCortney, Stephens, Hicks  
7 and Taylor of the Senate

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

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

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

Section 357. As used in this act:

1        1. "Commission" or "Pharmacy Choice Commission" means the  
2 Patient's Right to Pharmacy Choice Commission established by Section  
3 6966 of Title 36 of the Oklahoma Statutes;

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

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

21        ~~3.~~ 4. "Department" means the Oklahoma Insurance Department;

22        ~~4.~~ 5. "Maximum allowable cost" or "MAC" means the list of drug  
23 products delineating the maximum per-unit reimbursement for  
24 multiple-source prescription drugs, medical product or device;

1       ~~5.~~ 6. "Multisource drug product reimbursement" (reimbursement)  
2 means the total amount paid to a pharmacy inclusive of any reduction  
3 in payment to the pharmacy, excluding prescription dispense fees;

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

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

19       ~~7.~~ 8. "Pharmacy benefits manager" or "PBM" means a person,  
20 business or other entity that performs pharmacy benefits management.  
21 The term includes a person or entity acting for a PBM in a  
22 contractual or employment relationship in the performance of  
23 pharmacy benefits management for a managed care company, nonprofit  
24 hospital, medical service organization, insurance company, third-

1 party payor, or a health program administered by an agency of this  
2 state;

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

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

11 SECTION 2. AMENDATORY Section 2, Chapter 263, O.S.L.  
12 2014 (59 O.S. Supp. 2020, Section 358), is amended to read as  
13 follows:

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

21 B. The ~~Department~~ Pharmacy Choice Commission shall establish,  
22 by regulation, licensure procedures, required disclosures for  
23 pharmacy benefits managers (PBMs) and other rules as may be  
24 necessary for carrying out and enforcing the provisions of this act.

1 The licensure procedures shall, at a minimum, include the completion  
2 of an application form that shall include the name and address of an  
3 agent for service of process, the payment of a requisite fee, and  
4 evidence of the procurement of a surety bond.

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

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

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

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.

4 Passed the House of Representatives the 8th day of March, 2021.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2021.

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Presiding Officer of the Senate

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