

1 Section 357. As used in this act:

2 1. "Commission" or "Pharmacy Choice Commission" means the
3 Patient's Right to Pharmacy Choice Commission established by Section
4 6966 of Title 36 of the Oklahoma Statutes;

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

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

22 ~~3.~~ 4. "Department" means the Oklahoma Insurance Department;
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1 ~~4.~~ 5. "Maximum allowable cost" or "MAC" means the list of drug
2 products delineating the maximum per-unit reimbursement for
3 multiple-source prescription drugs, medical product or device;

4 ~~5.~~ 6. "Multisource drug product reimbursement" (reimbursement)
5 means the total amount paid to a pharmacy inclusive of any reduction
6 in payment to the pharmacy, excluding prescription dispense fees;

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

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

22 ~~7.~~ 8. "Pharmacy benefits manager" or "PBM" means a person,
23 business or other entity that performs pharmacy benefits management.
24 The term includes a person or entity acting for a PBM in a

1 contractual or employment relationship in the performance of
2 pharmacy benefits management for a managed care company, nonprofit
3 hospital, medical service organization, insurance company, third-
4 party payor, or a health program administered by an agency of this
5 state;

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

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

14 SECTION 2. AMENDATORY Section 2, Chapter 263, O.S.L.
15 2014 (59 O.S. Supp. 2020, Section 358), is amended to read as
16 follows:

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

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1 B. The ~~Department~~ Pharmacy Choice Commission shall establish,
2 by regulation, licensure procedures, required disclosures for
3 pharmacy benefits managers (PBMs) and other rules as may be
4 necessary for carrying out and enforcing the provisions of this act.
5 The licensure procedures shall, at a minimum, include the completion
6 of an application form that shall include the name and address of an
7 agent for service of process, the payment of a requisite fee, and
8 evidence of the procurement of a surety bond.

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

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

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

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

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9 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/24/2021 -
10 DO PASS, As Amended and Coauthored.

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