

1 **SENATE FLOOR VERSION**

2 April 5, 2021

3 ENGROSSED HOUSE
4 BILL NO. 2124

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

11 and

12 McCortney, Stephens, Hicks
13 and Taylor of the Senate

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

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

SECTION 1. AMENDATORY Section 1, Chapter 263, O.S.L.
2014, as amended by Section 7, Chapter 285, O.S.L. 2016 (59 O.S.
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 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
5 April 5, 2021 - DO PASS
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