

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2048 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:
tj.marti

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: TJ Marti _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 PROPOSED OVERSIGHT
4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2048

By: Stinson

7
8 PROPOSED OVERSIGHT COMMITTEE SUBSTITUTE

9 An Act relating to prescriptions; creating the 340B
10 Nondiscrimination Act; defining terms; prohibiting
11 certain discriminatory actions related to
12 reimbursement of certain entities; prohibiting
13 certain discriminatory actions by a manufacturer or
14 distributor related to certain entities; providing
15 for enforcement by the Attorney General and Insurance
16 Commissioner; providing for violations; providing for
17 federal preemption; providing a severability clause;
18 amending 36 O.S. 2021, Sections 6960, 6962, and
19 6966.1, as last amended by Section 1, Chapter 306,
20 O.S.L. 2024 (36 O.S. Supp. 2024, Sections 6960, 6962
21 and 6966.1), which relate to the Patient's Right to
22 Pharmacy Choice Act; adding definitions; prohibiting
23 a Pharmacy Benefits Manager (PBM) or agent of a PBM
24 to do certain things; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5400 of Title 36, unless there
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "340B
2 Nondiscrimination Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5401 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

7 1. "340B drug" means a drug that has been subject to any offer
8 for reduced prices by a manufacturer pursuant to Section 256b of
9 Title 42 of the United States Code and is purchased by a covered
10 entity as defined in Section 256b(a)(4) of Title 42 of the United
11 States Code;

12 2. "340B entity" means an entity participating or authorized to
13 participate in the federal 340B drug discount program, as described
14 in Section 256b of Title 42 of the United States Code, including its
15 pharmacy, or any pharmacy contracted with the participating entity
16 to dispense drugs purchased through the 340B drug discount program;

17 3. "Pharmacy" means a pharmacy licensed by the Oklahoma State
18 Board of Pharmacy, except that patients who are provided pharmacy
19 care shall be physically located in the state; and

20 4. "Pharmacy benefits manager" as defined in the Patients Right
21 to Pharmacy Care Act.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5402 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A. With respect to reimbursement to a 340B entity for 340B
2 drugs, a health insurance issuer, pharmacy benefits manager, other
3 third-party payor, or its agent shall not:

4 1. Reimburse a 340B entity that owns, controls, or is in
5 partnership of a pharmacy that fills 340B drugs;

6 2. Reimburse a 340B entity for 340B drugs at a rate lower than
7 that paid for the same drug to entities that are not 340B entities
8 or lower reimbursement for a claim on the basis that the claim is
9 for a 340B drug;

10 3. Reimburse a 340B entity for 340B drugs supplied by mail
11 order pharmacy;

12 4. Impose any terms or conditions on any 340B entity with
13 respect to any of the following that differ from such terms or
14 conditions applied to non-340B entities on the basis that the entity
15 participates in the federal 340B drug discount program set forth in
16 Section 256b of Title 42 of the United States Code or that a drug is
17 a 340B drug including, without limitation, any of the following:

18 a. fees, charges, clawbacks, or other adjustments or
19 assessments. For purposes of this subsection, the
20 term "other adjustments" includes placing any
21 additional requirements, restrictions, or unnecessary
22 burdens upon the 340B entity that result in
23 administrative costs or fees to the 340B entity that
24 are not placed upon other entities that do not

1 participate in the 340B drug discount program,
2 including affiliate pharmacies of the health insurance
3 issuer, pharmacy benefits manager, or other third-
4 party payor,

5 b. dispensing fees that are less than the dispensing fees
6 for non-340B entities,

7 c. restrictions or requirements regarding participation
8 in standard or preferred pharmacy networks,

9 d. requirements relating to the frequency or scope of
10 audits of inventory management systems,

11 e. requirements that a claim for a drug include any
12 identification, billing modifier, attestation, or
13 other indication that a drug is a 340B drug in order
14 to be processed or resubmitted unless it is required
15 by the Centers for Medicare and Medicaid Services or
16 the Oklahoma Health Care Authority for the
17 administration of the Oklahoma Medicaid program, or

18 f. any other restrictions, conditions, practices, or
19 policies that are not imposed on non-340B entities.

20 3. Require a 340B entity to reverse, resubmit, or clarify a
21 claim after the initial adjudication unless these actions are in the
22 normal course of pharmacy business and not related to 340B drug
23 pricing;

1 4. Discriminate against a 340B entity in a manner that
2 prevents or interferes with any patient's choice to receive such
3 drugs from the 340B entity, including the administration of such
4 drugs. For purposes of this subsection, it is considered a
5 discriminatory practice that prevents or interferes with a patient's
6 choice to receive drugs at a 340B entity if a health insurance
7 issuer, pharmacy benefits manager, or other third-party payor places
8 any additional requirements, restrictions, or unnecessary burdens
9 upon the 340B entity that results in administrative costs or fees to
10 the 340B entity, including but not limited to, requiring a claim for
11 a drug to include any identification, billing modifier, attestation,
12 or other indication that a drug is a 340B drug in order to be
13 processed or resubmitted unless it is required by the Centers for
14 Medicare and Medicaid Services or the Oklahoma Health Care Authority
15 in administration of the Oklahoma Medicaid program;

16 5. Include any other provision in a contract between a health
17 insurance issuer, pharmacy benefits manager, or other third-party
18 payor and a 340B entity that discriminates against the 340B entity
19 or prevents or interferes with an individual's choice to receive a
20 prescription drug from a 340B entity, including the administration
21 of the drug, in person or via direct delivery, mail, or other form
22 of shipment, or creation of a restriction or additional charge on a
23 patient who chooses to receive drugs from a 340B entity;

24

1 6. Require or compel the submission of ingredient costs or
2 pricing data pertaining to 340B drugs to any health insurance
3 issuer, pharmacy benefits manager, or other third-party payor; or

4 7. Exclude any 340B entity from the health insurance issuer,
5 pharmacy benefits manager, or other third-party payor network on the
6 basis that the 340B entity dispenses drugs subject to an agreement
7 under Section 256b of Title 42 of the United States Code, or
8 refusing to contract with a 340B entity for reasons other than those
9 that apply equally to non-340B entities.

10 B. Nothing in this section applies to the Oklahoma Medicaid
11 program as payor when Medicaid provides reimbursement for covered
12 outpatient drugs as defined in Section 1396r-8(k) of Title 42 of the
13 United States Code.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5403 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A manufacturer or distributor shall not deny, restrict,
18 prohibit, or otherwise interfere with, either directly or
19 indirectly, the acquisition of a 340B drug by, or delivery of a 340B
20 drug to, a pharmacy that is under contract with a 340B entity and is
21 authorized under such contract to receive and dispense 340B drugs on
22 behalf of the covered entity unless such receipt is prohibited by
23 the United States Department of Health and Human Services.

1 B. A manufacturer or distributor shall not interfere with a
2 pharmacy contracted with a 340B entity.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5404 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 The Attorney General may make rules and regulations interpreting
7 the provisions of this act and shall be responsible for enforcement
8 of this act. The Attorney General may impose civil fines of not
9 less than One Hundred Dollars (\$100.00) and not greater than Ten
10 Thousand Dollars (\$10,000.00) for each violation of the provisions
11 of this act.

12 A violation occurs each time a prohibited act is committed.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 5405 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Nothing in this section is to be construed or applied to be
17 less restrictive than federal law for a person or entity regulated
18 by this act.

19 B. Nothing in this act is to be construed or applied to be in
20 conflict with any of the following:

- 21 1. Applicable federal law and related regulations; or
- 22 2. Other laws of this state if the state law is compatible with
23 applicable federal law.

24

1 C. Limited distribution of a drug required under Section 355-1
2 of Title 21 of the United States Code is not to be construed as a
3 violation of this section.

4 D. If any provision of this act, an amendment made by this act,
5 or the application of such provision or amendment to any person or
6 circumstance is held to be unconstitutional, the remainder of this
7 act, the amendments made by this act, and the application of the
8 provisions of such to any person or circumstance shall not be
9 affected thereby.

10 SECTION 7. AMENDATORY 36 O.S. 2021, Section 6960, as
11 last amended by Section 1, Chapter 306, O.S.L. 2024 (36 O.S. Supp.
12 2024, Section 6960), is amended to read as follows:

13 Section 6960. A. For purposes of the Patient's Right to
14 Pharmacy Choice Act:

15 1. "340B drug pricing" means the pricing agreement established
16 under Section 602 of the Veterans Health Care Act of 1992, Pub. L.
17 No. 102-585;

18 2. "340B entity" means a covered entity as that term is defined
19 in 42 U.S.C., Section 256b;

20 3. "Covered entity" means a nonprofit hospital or medical
21 service organization, for-profit hospital or medical service
22 organization, insurer, health benefit plan, health maintenance
23 organization, health program administered by the state in the
24 capacity of providing health coverage, or an employer, labor union,

1 or other group of persons that provides health coverage to persons
2 in this state. This term does not include a health plan that
3 provides coverage only for accidental injury, specified disease,
4 hospital indemnity, disability income, or other limited benefit
5 health insurance policies and contracts that do not include
6 prescription drug coverage;

7 ~~2.~~ 4. "Health insurer" means any corporation, association,
8 benefit society, exchange, partnership or individual licensed by the
9 Oklahoma Insurance Code;

10 ~~3.~~ 5. "Health insurer payor" means a health insurance company,
11 health maintenance organization, union, hospital and medical
12 services organization or any entity providing or administering a
13 self-funded health benefit plan;

14 ~~4.~~ 6. "Mail-order pharmacy" means a pharmacy licensed by this
15 state that primarily dispenses and delivers covered drugs via common
16 carrier;

17 ~~5.~~ 7. "Pharmacy benefits manager" or "PBM" means a person,
18 business, or other entity that performs pharmacy benefits
19 management. The term shall include a person or entity acting on
20 behalf of a PBM in a contractual or employment relationship in the
21 performance of pharmacy benefits management for a managed care
22 company, nonprofit hospital, medical service organization, insurance
23 company, third-party payor or a health program administered by a
24 department of this state;

1 ~~6.~~ 8. "Pharmacy benefits management" means a service provided
2 to covered entities to facilitate the provisions of prescription
3 drug benefits to covered individuals within the state, including,
4 but not limited to, negotiating pricing and other terms with drug
5 manufacturers and providers. Pharmacy benefits management may
6 include any or all of 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. administration or management of pharmacy discount
11 cards or programs,
- 12 c. clinical formulary development and management
13 services, or
- 14 d. rebate contracting and administration;

15 ~~7.~~ 9. "Provider" means a pharmacy, as defined in Section 353.1
16 of Title 59 of the Oklahoma Statutes or an agent or representative
17 of a pharmacy;

18 ~~8.~~ 10. "Retail pharmacy network" means retail pharmacy
19 providers contracted with a PBM in which the pharmacy primarily
20 fills and sells prescriptions via a retail, storefront location;

21 ~~9.~~ 11. "Rural service area" means a five-digit ZIP code in
22 which the population density is less than one thousand (1,000)
23 individuals per square mile;

24

1 ~~10.~~ 12. "Spread pricing" means a prescription drug pricing
2 model utilized by a pharmacy benefits manager in which the PBM
3 charges a health benefit plan a contracted price for prescription
4 drugs that differs from the amount the PBM directly or indirectly
5 pays the pharmacy or pharmacist for providing pharmacy services;

6 ~~11.~~ 13. "Suburban service area" means a five-digit ZIP code in
7 which the population density is between one thousand (1,000) and
8 three thousand (3,000) individuals per square mile; and

9 ~~12.~~ 14. "Urban service area" means a five-digit ZIP code in
10 which the population density is greater than three thousand (3,000)
11 individuals per square mile.

12 B. Nothing in the definitions of pharmacy benefits manager or
13 pharmacy benefits management as such terms are defined in the
14 Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity
15 Act, or Sections 357 through 360 of Title 59 of the Oklahoma
16 Statutes shall be construed to deem the following entities to be a
17 pharmacy benefits manager:

18 1. An employer of its own self-funded health benefit plan,
19 except, to the extent permitted by applicable law, where the
20 employer without the utilization of a third party and unrelated to
21 the employer's own pharmacy:

- 22 a. negotiates directly with drug manufacturers,
- 23 b. processes claims on behalf of its members, or
- 24 c. manages its own retail network of pharmacies; or

1 2. A pharmacy that provides a patient with a discount card or
2 program that is for exclusive use at the pharmacy offering the
3 discount.

4 SECTION 8. AMENDATORY 36 O.S. 2021, Section 6962, as
5 last amended by Section 2, Chapter 306, O.S.L. 2024 (36 O.S. Supp.
6 2024, Section 6962), is amended to read as follows:

7 Section 6962. A. The Attorney General shall review and approve
8 retail pharmacy network access for all pharmacy benefits managers
9 (PBMs) to ensure compliance with Section 6961 of this title.

10 B. A PBM, or an agent of a PBM, shall not:

11 1. Cause or knowingly permit the use of advertisement,
12 promotion, solicitation, representation, proposal or offer that is
13 untrue, deceptive or misleading;

14 2. Charge a pharmacist or pharmacy a fee related to the
15 adjudication of a claim including without limitation a fee for:

- 16 a. the submission of a claim,
- 17 b. enrollment or participation in a retail pharmacy
18 network, or
- 19 c. the development or management of claims processing
20 services or claims payment services related to
21 participation in a retail pharmacy network;

22 3. Reimburse a pharmacy or pharmacist in the state an amount
23 less than the amount that the PBM reimburses a pharmacy owned by or
24 under common ownership with a PBM for providing the same covered

1 services. The reimbursement amount paid to the pharmacy shall be
2 equal to the reimbursement amount calculated on a per-unit basis
3 using the same generic product identifier or generic code number
4 paid to the PBM-owned or PBM-affiliated pharmacy;

5 4. Deny a provider the opportunity to participate in any
6 pharmacy network at preferred participation status if the provider
7 is willing to accept the terms and conditions that the PBM has
8 established for other providers as a condition of preferred network
9 participation status;

10 5. Deny, limit or terminate a provider's contract based on
11 employment status of any employee who has an active license to
12 dispense, despite probation status, with the State Board of
13 Pharmacy;

14 6. Retroactively deny or reduce reimbursement for a covered
15 service claim after returning a paid claim response as part of the
16 adjudication of the claim, unless:

- 17 a. the original claim was submitted fraudulently, or
18 b. to correct errors identified in an audit, so long as
19 the audit was conducted in compliance with Sections
20 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

21 7. Fail to make any payment due to a pharmacy or pharmacist for
22 covered services properly rendered in the event a PBM terminates a
23 provider from a pharmacy benefits manager network;

24

1 8. Conduct or practice spread pricing, as defined in Section
2 6960 of this title, in this state; ~~or~~

3 9. Charge a pharmacist or pharmacy a fee related to
4 participation in a retail pharmacy network including but not limited
5 to the following:

- 6 a. an application fee,
- 7 b. an enrollment or participation fee,
- 8 c. a credentialing or re-credentialing fee,
- 9 d. a change of ownership fee, or
- 10 e. a fee for the development or management of claims
11 processing services or claims payment services.

12 10. Discriminate, offer lower reimbursement, or impose any
13 separate terms upon a provider on the basis that a provider
14 participates in 340B drug pricing;

15 11. Require a provider to reverse, resubmit, or clarify a 340B
16 drug pricing claim after the initial adjudication unless these
17 actions are in normal course of pharmacy business and not related to
18 340B drug pricing;

19 12. Require a billing modifier to indicate that the drug or
20 claim is a 340B drug pricing claim, unless the drug or claim is
21 being billed to the Oklahoma Medicaid Program;

22 13. Modify a patient copayment on the basis that the provider
23 of the patient participates in 340B drug pricing;
24

1 14. Exclude a provider from a network on the basis that the
2 provider participates in 340B drug pricing;

3 15. Establish or set network adequacy requirements based on
4 340B drug pricing participation by a provider;

5 16. Prohibit a 340B entity or a pharmacy under contract with a
6 340B entity from participating in the network of the PBM on the
7 basis of participation in 340B drug pricing; or

8 17. Base the drug formulary or drug coverage decisions upon the
9 340B drug pricing status of a drug, including price or availability,
10 or whether a dispensing pharmacy participates in 340B drug pricing.

11 C. The prohibitions under this section shall apply to contracts
12 between pharmacy benefits managers and providers for participation
13 in retail pharmacy networks.

14 1. A PBM contract shall:

15 a. not restrict, directly or indirectly, any pharmacy
16 that dispenses a prescription drug from informing, or
17 penalize such pharmacy for informing, an individual of
18 any differential between the individual's out-of-
19 pocket cost or coverage with respect to acquisition of
20 the drug and the amount an individual would pay to
21 purchase the drug directly, ~~and~~

22 b. ensure that any entity that provides pharmacy benefits
23 management services under a contract with any such
24 health plan or health insurance coverage does not,

1 with respect to such plan or coverage, restrict,
2 directly or indirectly, a pharmacy that dispenses a
3 prescription drug from informing, or penalize such
4 pharmacy for informing, a covered individual of any
5 differential between the individual's out-of-pocket
6 cost under the plan or coverage with respect to
7 acquisition of the drug and the amount an individual
8 would pay for acquisition of the drug without using
9 any health plan or health insurance coverage, and

10 c. eliminate discriminatory contracting as it relates to:

11 (1) transferring the benefit of 340B drug pricing
12 savings from a 340B entity to another entity,
13 including without limitation pharmacy benefits
14 managers, private insurers, and managed care
15 organizations,

16 (2) offering a lower reimbursement rate for drugs
17 purchased under 340B drug pricing than for the
18 same drug not purchased under 340B drug pricing,

19 (3) refusal to cover drug purchases utilizing 340B
20 drug pricing,

21 (4) refusal to allow providers who utilize 340B drug
22 pricing to participate in networks, and

1 (5) charging more than fair market value or seeking
2 profit sharing in exchange for services involving
3 340B drug pricing.

4 2. A pharmacy benefits manager's contract with a provider shall
5 not prohibit, restrict, or limit disclosure of information or
6 documents to the Attorney General, law enforcement or state and
7 federal governmental officials investigating or examining a
8 complaint or conducting a review of a pharmacy benefits manager's
9 compliance with the requirements under the Patient's Right to
10 Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections
11 357 through 360 of Title 59 of the Oklahoma Statutes.

12 D. A pharmacy benefits manager shall:

13 1. Establish and maintain an electronic claim inquiry
14 processing system using the National Council for Prescription Drug
15 Programs' current standards to communicate information to pharmacies
16 submitting claim inquiries;

17 2. Fully disclose to insurers, self-funded employers, unions or
18 other PBM clients the existence of the respective aggregate
19 prescription drug discounts, rebates received from drug
20 manufacturers and pharmacy audit recoupments;

21 3. Provide the Attorney General, insurers, self-funded employer
22 plans and unions unrestricted audit rights of and access to the
23 respective PBM pharmaceutical manufacturer and provider contracts,
24

1 plan utilization data, plan pricing data, pharmacy utilization data
2 and pharmacy pricing data;

3 4. Maintain, for no less than three (3) years, documentation of
4 all network development activities including but not limited to
5 contract negotiations and any denials to providers to join networks.
6 This documentation shall be made available to the Attorney General
7 upon request; ~~and~~

8 5. Report to the Attorney General, on a quarterly basis for
9 each health insurer payor, on the following information:

- 10 a. the aggregate amount of rebates received by the PBM,
- 11 b. the aggregate amount of rebates distributed to the
12 appropriate health insurer payor,
- 13 c. the aggregate amount of rebates passed on to the
14 enrollees of each health insurer payor at the point of
15 sale that reduced the applicable deductible,
16 copayment, coinsure or other cost sharing amount of
17 the enrollee,
- 18 d. the individual and aggregate amount paid by the health
19 insurer payor to the PBM for pharmacy services
20 itemized by pharmacy, drug product and service
21 provided, and
- 22 e. the individual and aggregate amount a PBM paid a
23 provider for pharmacy services itemized by pharmacy,
24 drug product and service provided. ; and

1 6. Make drug formulary and coverage decisions based on the
2 normal course of business of the PBM, not based upon the 340B drug
3 pricing status of a drug, including price or availability, or
4 whether a dispensing pharmacy participates in 340B drug pricing.

5 E. Nothing in the Patient's Right to Pharmacy Choice Act shall
6 prohibit the Attorney General from requesting and obtaining detailed
7 data, including raw data, in response to the information provided by
8 a PBM in the quarterly reports required by this section. The
9 Attorney General may alter the frequency of the reports required by
10 this section at his or her sole discretion.

11 F. The Attorney General may promulgate rules to implement the
12 provisions of the Patient's Right to Pharmacy Choice Act, the
13 Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title
14 59 of the Oklahoma Statutes.

15 SECTION 9. AMENDATORY Section 3, Chapter 38, O.S.L.
16 2022, as last amended by Section 4, Chapter 306, O.S.L. 2024 (36
17 O.S. Supp. 2024, Section 6966.1), is amended to read as follows:

18 Section 6966.1. A. The Insurance Commissioner may censure,
19 suspend, revoke, or refuse to issue or renew a license of or levy a
20 civil penalty against any person licensed under the insurance laws
21 of this state for any violation of the Patient's Right to Pharmacy
22 Choice Act, Section 6958 et seq. of this title.

23 B. 1. If the Attorney General finds, after notice and
24 opportunity for hearing, that a pharmacy benefits manager (PBM)

1 violated one or more provisions of the Patient's Right to Pharmacy
2 Choice Act, the Pharmacy Audit Integrity Act or the provisions of
3 Sections 357 through 360 of Title 59 of the Oklahoma Statutes, the
4 Attorney General may instruct the Insurance Commissioner that the
5 PBM be censured or his or her license be suspended or revoked. If
6 the Attorney General makes such instruction, the Commissioner shall
7 enforce such action within thirty (30) days.

8 2. In addition to or in lieu of any censure or suspension or
9 revocation of a license by the Commissioner, the Attorney General
10 may levy a civil or administrative fine not less than One Hundred
11 Dollars (\$100.00) and not greater than Ten Thousand Dollars
12 (\$10,000.00) for each violation of the provisions of the Patient's
13 Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act or
14 the provisions of Sections 357 through 360 of Title 59 of the
15 Oklahoma Statutes.

16 3. The Attorney General may order restitution for economic loss
17 suffered by pharmacies or patients for violations of the Patient's
18 Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, or
19 the provisions of Sections 357 through 360 of Title 59 of the
20 Oklahoma Statutes.

21 C. Notwithstanding whether the license of a PBM has been
22 issued, suspended, revoked, surrendered or lapsed by operation of
23 law, the Attorney General is hereby authorized to enforce the
24 provisions of the Patient's Right to Pharmacy Choice Act and impose

1 any penalty or remedy authorized under the act against a PBM under
2 investigation for or charged with a violation of the Patient's Right
3 to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, the
4 provisions of Sections 357 through 360 of Title 59 of the Oklahoma
5 Statutes or any provision of the insurance laws of this state.

6 D. Each day that a PBM conducts business in this state without
7 a license from the Insurance Department shall be deemed a violation
8 of the Patient's Right to Pharmacy Choice Act.

9 E. 1. All hearings conducted by the Office of the Attorney
10 General pursuant to this section shall be public and held in
11 accordance with the Administrative Procedures Act.

12 2. Hearings shall be held at the Office of the Attorney General
13 or any other place the Attorney General may deem convenient.

14 3. The Attorney General, upon written request from a PBM
15 affected by the hearing, shall cause a full stenographic record of
16 the proceedings to be made by a competent court reporter. This
17 record shall be at the expense of the PBM.

18 4. The ordinary fees and costs of the hearing examiner
19 appointed pursuant to Section 319 of this title may be assessed by
20 the hearing examiner against the respondent unless the respondent is
21 the prevailing party.

22 F. Any PBM whose license has been censured, suspended, revoked
23 or denied renewal or who has had a fine levied against him or her
24 shall have the right of appeal from the final order of the Attorney

1 General, pursuant to Section 318 et seq. of Title 75 of the Oklahoma
2 Statutes.

3 G. If the Attorney General determines, based upon an
4 investigation of complaints, that a PBM has engaged in violations of
5 the provisions of the Patient's Right to Pharmacy Choice Act, the
6 Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title
7 59 of the Oklahoma Statutes with such frequency as to indicate a
8 general business practice, and that the PBM should be subjected to
9 closer supervision with respect to those practices, the Attorney
10 General may require the PBM to file a report at any periodic
11 interval the Attorney General deems necessary.

12 H. 1. The Attorney General shall have the authority to collect
13 all fines, penalties, restitution, and interest thereon pursuant to
14 the provisions of the Patient's Right to Pharmacy Choice Act, the
15 Pharmacy Audit Integrity Act, and the provisions of Sections 357
16 through 360 of Title 59 of the Oklahoma Statutes, or any other
17 charge, cause of action, prelitigation settlement, or other
18 settlement that requires the recovery of money as a result of
19 violations of the Patient's Right to Pharmacy Choice Act. Funds
20 collected by the Attorney General pursuant to the Patient's Right to
21 Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections
22 357 through 360 of Title 59 of the Oklahoma Statutes shall be
23 deposited into the Attorney General's Pharmacy Benefits Manager
24 Enforcement Revolving Fund created in Section 5 of this act.

1 2. Costs of investigation, litigation, attorney fees, and other
2 expenses incurred shall be retained by the Office of the Attorney
3 General. Remaining funds shall be distributed to pharmacists,
4 patients, or other injured parties as determined by the Attorney
5 General.

6 3. The Attorney General shall promulgate rules for the
7 distribution of funds pursuant to this subsection.

8 I. All claims processed by a PBM on behalf of a provider that
9 participates in 340B drug pricing or on behalf of a 340B entity
10 shall be deemed final at the point of adjudication.

11 SECTION 10. This act shall become effective November 1, 2025.

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13 60-1-12771 TJ 02/20/25

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