

1 ENGROSSED HOUSE
2 BILL NO. 2048

By: Stinson, Deck, Moore,
Archer and Hefner of the
House

3
4 and

Howard of the Senate

5
6
7 An Act relating to prescriptions; creating the 340B
8 Nondiscrimination Act; defining terms; prohibiting
9 certain discriminatory actions related to
10 reimbursement of certain entities; making certain
11 provisions inapplicable when Medicaid provides
12 reimbursement for covered drugs; prohibiting certain
13 discriminatory actions by a manufacturer or
14 distributor related to certain entities; establishing
15 contract requirement; providing construing provision;
16 authorizing the Insurance Department to establish
17 rules and regulations; providing for enforcement by
18 the Attorney General and Insurance Commissioner;
19 providing for violations and the levying of civil
20 fines; allowing for the sharing of certain
21 information; requiring entities to keep information
22 confidential; providing an exception; providing for
23 federal preemption; providing for severability;
24 amending 36 O.S. 2021, Sections 6960 and 6962, as
last amended by Sections 1 and 2, Chapter 306, O.S.L.
2024, and Section 3, Chapter 38, O.S.L. 2022, as last
amended by Section 4, Chapter 306, O.S.L. 2024 (36
O.S. Supp. 2024, Sections 6960, 6962, and 6966.1),
which relate to the Patient's Right to Pharmacy
Choice Act; defining terms; prohibiting certain
actions by pharmacy benefits managers (PBMs) or
agents of a PBM; providing additional requirements
for PBM contracts; requiring PBMs to make certain
drug formulary and coverage decisions; deeming all
processed claims final at point of adjudication;
providing for codification; and providing an
effective date.

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

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

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

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

9 As used in this act:

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

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

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

23 4. "Pharmacy benefits manager" means a person that performs
24 pharmacy benefits management and any other person acting for such

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

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

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

12 1. Reimburse a 340B entity for 340B drugs at a rate lower than
13 that paid for the same drug to entities that are not 340B entities
14 or lower reimbursement for a claim on the basis that the claim is
15 for a 340B drug;

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

22 a. fees, charges, clawbacks, or other adjustments or
23 assessments. For purposes of this subsection, the
24 term "other adjustments" includes placing any

1 additional requirements, restrictions, or unnecessary
2 burdens upon the 340B entity that result in
3 administrative costs or fees to the 340B entity that
4 are not placed upon other entities that do not
5 participate in the 340B drug discount program,
6 including affiliate pharmacies of the health insurance
7 issuer, pharmacy benefits manager, or other third-
8 party payor,

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

11 c. restrictions or requirements regarding participation
12 in standard or preferred pharmacy networks,

13 d. requirements relating to the frequency or scope of
14 audits of inventory management systems,

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

21 administration of the Oklahoma Medicaid program, or
22 f. any other restrictions, conditions, practices, or
23 policies that are not imposed on non-340B entities;
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1 3. Require a 340B entity to reverse, resubmit, or clarify a
2 claim after the initial adjudication unless these actions are in the
3 normal course of pharmacy business and not related to 340B drug
4 pricing;

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

20 5. Include any other provision in a contract between a health
21 insurance issuer, pharmacy benefits manager, or other third-party
22 payor and a 340B entity that discriminates against the 340B entity
23 or prevents or interferes with an individual's choice to receive a
24 prescription drug from a 340B entity, including the administration

1 of the drug, in person or via direct delivery, mail, or other form
2 of shipment, or creation of a restriction or additional charge on a
3 patient who chooses to receive drugs from a 340B entity;

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

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

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

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

20 A. A manufacturer shall not deny, restrict, prohibit, or
21 otherwise interfere with, either directly or indirectly, the
22 acquisition of a 340B drug by, or delivery of a 340B drug to a 340B
23 entity, unless such receipt is prohibited by the United States
24 Department of Health and Human Services.

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

3 C. A 340B entity shall contract with any willing pharmacy upon
4 mutually agreeable terms within a fifteen-mile radius of the 340B
5 entity's location.

6 D. Nothing in this section shall be construed to limit the
7 number of pharmacies that a 340B entity shall be allowed to contract
8 with.

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

12 A. The Insurance Department is authorized to establish rules
13 and regulations interpreting the provisions of this act concerning
14 health insurers. The Department is responsible for enforcing this
15 act specifically with respect to health insurers. It may levy civil
16 fines ranging from One Hundred Dollars (\$100.00) to Ten Thousand
17 Dollars (\$10,000.00) per violation of this act. This section does
18 not prevent the Insurance Department from seeking assistance from
19 the Attorney General in enforcing this act or limit the Insurance
20 Department's ability to regulate the licensing of pharmacy benefit
21 managers. Each instance of a prohibited act constitutes a separate
22 violation.

23 B. The Attorney General is authorized to establish rules and
24 regulations interpreting the provisions of this act and concerning

1 any person or entity who is not a health insurer subject to
2 enforcement by the Insurance Department. The Attorney General may
3 impose civil fines of not less than One Hundred Dollars (\$100.00)
4 and not greater than Ten Thousand Dollars (\$10,000.00) for each
5 violation of the provisions of this act.

6 C. Nothing shall prohibit the Attorney General's Office or the
7 Insurance Department from sharing any information with each other as
8 a part of an investigation regarding conduct that is prohibited by
9 this act. Any information shared between the Attorney General's
10 Office and the Insurance Department shall be kept confidential
11 unless it is used during an enforcement action authorized by this
12 act, the disclosing agency has authorized such disclosure, or the
13 information is publicly available.

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

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

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

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

23 1. Applicable federal law and related regulations; or
24

1 2. Other laws of this state if the state law is compatible with
2 applicable federal law.

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

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

12 SECTION 7. AMENDATORY 36 O.S. 2021, Section 6960, as
13 last amended by Section 1, Chapter 306, O.S.L. 2024 (36 O.S. Supp.
14 2024, Section 6960), is amended to read as follows:

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

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

20 2. "340B entity" means a covered entity as that term is defined
21 in 42 U.S.C., Section 256b;

22 3. "Covered entity" means a nonprofit hospital or medical
23 service organization, for-profit hospital or medical service
24 organization, insurer, health benefit plan, health maintenance

1 organization, health program administered by the state in the
2 capacity of providing health coverage, or an employer, labor union,
3 or other group of persons that provides health coverage to persons
4 in this state. This term does not include a health plan that
5 provides coverage only for accidental injury, specified disease,
6 hospital indemnity, disability income, or other limited benefit
7 health insurance policies and contracts that do not include
8 prescription drug coverage;

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

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

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

19 ~~5.~~ 7. "Pharmacy benefits manager" or "PBM" means a person,
20 business, or other entity that performs pharmacy benefits
21 management. The term shall include a person or entity acting on
22 behalf of a PBM in a contractual or employment relationship in the
23 performance of pharmacy benefits management for a managed care
24 company, nonprofit hospital, medical service organization, insurance

1 company, third-party payor or a health program administered by a
2 department of this state;

3 ~~6.~~ 8. "Pharmacy benefits management" means a service provided
4 to covered entities to facilitate the provisions of prescription
5 drug benefits to covered individuals within the state, including,
6 but not limited to, negotiating pricing and other terms with drug
7 manufacturers and providers. Pharmacy benefits management may
8 include any or all of the following services:

- 9 a. claims processing, retail network management, and
10 payment of claims to pharmacies for prescription drugs
11 dispensed to covered individuals,
- 12 b. administration or management of pharmacy discount
13 cards or programs,
- 14 c. clinical formulary development and management
15 services, or
- 16 d. rebate contracting and administration;

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

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

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

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

9 ~~11.~~ 13. "Suburban service area" means a five-digit ZIP code in
10 which the population density is between one thousand (1,000) and
11 three thousand (3,000) individuals per square mile; and

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

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

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

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

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

7 SECTION 8. AMENDATORY 36 O.S. 2021, Section 6962, as
8 last amended by Section 2, Chapter 306, O.S.L. 2024 (36 O.S. Supp.
9 2024, Section 6962), is amended to read as follows:

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

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

14 1. Cause or knowingly permit the use of advertisement,
15 promotion, solicitation, representation, proposal or offer that is
16 untrue, deceptive or misleading;

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

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

1 3. Reimburse a pharmacy or pharmacist in the state an amount
2 less than the amount that the PBM reimburses a pharmacy owned by or
3 under common ownership with a PBM for providing the same covered
4 services. The reimbursement amount paid to the pharmacy shall be
5 equal to the reimbursement amount calculated on a per-unit basis
6 using the same generic product identifier or generic code number
7 paid to the PBM-owned or PBM-affiliated pharmacy;

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

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

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

- 20 a. the original claim was submitted fraudulently, or
- 21 b. to correct errors identified in an audit, so long as
- 22 the audit was conducted in compliance with Sections
- 23 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

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

4 8. Conduct or practice spread pricing, as defined in Section
5 6960 of this title, in this state; ~~or~~

6 9. Charge a pharmacist or pharmacy a fee related to
7 participation in a retail pharmacy network including but not limited
8 to the following:

9 a. an application fee,

10 b. an enrollment or participation fee,

11 c. a credentialing or re-credentialing fee,

12 d. a change of ownership fee, or

13 e. a fee for the development or management of claims
14 processing services or claims payment services;

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

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

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

1 13. Modify a patient copayment on the basis that the provider
2 of the patient participates in 340B drug pricing;

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

5 15. Establish or set network adequacy requirements based on
6 340B drug pricing participation by a provider;

7 16. Prohibit a 340B entity or a pharmacy under contract with a
8 340B entity from participating in the network of the PBM on the
9 basis of participation in 340B drug pricing; or

10 17. Base the drug formulary or drug coverage decisions upon the
11 340B drug pricing status of a drug, including price or availability,
12 or whether a dispensing pharmacy participates in 340B drug pricing.

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

16 1. A PBM contract shall:

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

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1 b. ensure that any entity that provides pharmacy benefits
2 management services under a contract with any such
3 health plan or health insurance coverage does not,
4 with respect to such plan or coverage, restrict,
5 directly or indirectly, a pharmacy that dispenses a
6 prescription drug from informing, or penalize such
7 pharmacy for informing, a covered individual of any
8 differential between the individual's out-of-pocket
9 cost under the plan or coverage with respect to
10 acquisition of the drug and the amount an individual
11 would pay for acquisition of the drug without using
12 any health plan or health insurance coverage, and

13 c. eliminate discriminatory contracting as it relates to:

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

19 (2) offering a lower reimbursement rate for drugs
20 purchased under 340B drug pricing than for the
21 same drug not purchased under 340B drug pricing,

22 (3) refusal to cover drug purchases utilizing 340B
23 drug pricing,

- 1 (4) refusal to allow providers who utilize 340B drug
2 pricing to participate in networks, and
3 (5) charging more than fair market value or seeking
4 profit sharing in exchange for services involving
5 340B drug pricing.

6 2. A pharmacy benefits manager's contract with a provider shall
7 not prohibit, restrict, or limit disclosure of information or
8 documents to the Attorney General, law enforcement or state and
9 federal governmental officials investigating or examining a
10 complaint or conducting a review of a pharmacy benefits manager's
11 compliance with the requirements under the Patient's Right to
12 Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections
13 357 through 360 of Title 59 of the Oklahoma Statutes.

14 D. A pharmacy benefits manager shall:

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

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

23 3. Provide the Attorney General, insurers, self-funded employer
24 plans and unions unrestricted audit rights of and access to the

1 respective PBM pharmaceutical manufacturer and provider contracts,
2 plan utilization data, plan pricing data, pharmacy utilization data
3 and pharmacy pricing data;

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

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

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

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1 e. the individual and aggregate amount a PBM paid a
2 provider for pharmacy services itemized by pharmacy,
3 drug product and service provided;

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

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

14 F. The Attorney General may promulgate rules to implement the
15 provisions of the Patient's Right to Pharmacy Choice Act, the
16 Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title
17 59 of the Oklahoma Statutes.

18 SECTION 9. AMENDATORY Section 3, Chapter 38, O.S.L.
19 2022, as last amended by Section 4, Chapter 306, O.S.L. 2024 (36
20 O.S. Supp. 2024, Section 6966.1), is amended to read as follows:

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

3 B. 1. If the Attorney General finds, after notice and
4 opportunity for hearing, that a pharmacy benefits manager (PBM)
5 violated one or more provisions of the Patient's Right to Pharmacy
6 Choice Act, the Pharmacy Audit Integrity Act or the provisions of
7 Sections 357 through 360 of Title 59 of the Oklahoma Statutes, the
8 Attorney General may instruct the Insurance Commissioner that the
9 PBM be censured or his or her license be suspended or revoked. If
10 the Attorney General makes such instruction, the Commissioner shall
11 enforce such action within thirty (30) days.

12 2. In addition to or in lieu of any censure or suspension or
13 revocation of a license by the Commissioner, the Attorney General
14 may levy a civil or administrative fine not less than One Hundred
15 Dollars (\$100.00) and not greater than Ten Thousand Dollars
16 (\$10,000.00) for each violation of the provisions of the Patient's
17 Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act or
18 the provisions of Sections 357 through 360 of Title 59 of the
19 Oklahoma Statutes.

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

1 C. Notwithstanding whether the license of a PBM has been
2 issued, suspended, revoked, surrendered or lapsed by operation of
3 law, the Attorney General is hereby authorized to enforce the
4 provisions of the Patient's Right to Pharmacy Choice Act and impose
5 any penalty or remedy authorized under the act against a PBM under
6 investigation for or charged with a violation of the Patient's Right
7 to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, the
8 provisions of Sections 357 through 360 of Title 59 of the Oklahoma
9 Statutes or any provision of the insurance laws of this state.

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

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

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

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

22 4. The ordinary fees and costs of the hearing examiner
23 appointed pursuant to Section 319 of this title may be assessed by
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1 the hearing examiner against the respondent unless the respondent is
2 the prevailing party.

3 F. Any PBM whose license has been censured, suspended, revoked
4 or denied renewal or who has had a fine levied against him or her
5 shall have the right of appeal from the final order of the Attorney
6 General, pursuant to Section 318 et seq. of Title 75 of the Oklahoma
7 Statutes.

8 G. If the Attorney General determines, based upon an
9 investigation of complaints, that a PBM has engaged in violations of
10 the provisions of the Patient's Right to Pharmacy Choice Act, the
11 Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title
12 59 of the Oklahoma Statutes with such frequency as to indicate a
13 general business practice, and that the PBM should be subjected to
14 closer supervision with respect to those practices, the Attorney
15 General may require the PBM to file a report at any periodic
16 interval the Attorney General deems necessary.

17 H. 1. The Attorney General shall have the authority to collect
18 all fines, penalties, restitution, and interest thereon pursuant to
19 the provisions of the Patient's Right to Pharmacy Choice Act, the
20 Pharmacy Audit Integrity Act, and the provisions of Sections 357
21 through 360 of Title 59 of the Oklahoma Statutes, or any other
22 charge, cause of action, prelitigation settlement, or other
23 settlement that requires the recovery of money as a result of
24 violations of the Patient's Right to Pharmacy Choice Act. Funds

1 collected by the Attorney General pursuant to the Patient's Right to
2 Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections
3 357 through 360 of Title 59 of the Oklahoma Statutes shall be
4 deposited into the Attorney General's Pharmacy Benefits Manager
5 Enforcement Revolving Fund created in Section 5 of this act.

6 2. Costs of investigation, litigation, attorney fees, and other
7 expenses incurred shall be retained by the Office of the Attorney
8 General. Remaining funds shall be distributed to pharmacists,
9 patients, or other injured parties as determined by the Attorney
10 General.

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

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

16 SECTION 10. This act shall become effective November 1, 2025.
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1 Passed the House of Representatives the 26th day of March, 2025.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2025.

7
8 _____
9 Presiding Officer of the Senate