

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2597

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Introduction and first reading
Referred to Commerce and Consumer Protection Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to insurance; providing for the licensing of pharmacy benefit managers;
1.3 amending Minnesota Statutes 2016, section 60A.23, by adding a subdivision.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2016, section 60A.23, is amended by adding a subdivision
1.6 to read:

1.7 Subd. 9. **Pharmacy benefit manager.** (a) "Pharmacy benefit manager" means a person,
1.8 business, or other entity that, pursuant to a contract or under an employment relationship
1.9 with a health plan company, a self-insurance plan, or other third-party payer, either directly
1.10 or through an intermediary, manages the prescription drug coverage provided by the health
1.11 plan company, self-insurance plan, or other third-party payer including, but not limited to,
1.12 the processing and payment of claims for prescription drugs, the performance of drug
1.13 utilization review, the processing of drug prior authorization requests, the adjudication of
1.14 appeals or grievances related to prescription drug coverage, contracting with network
1.15 pharmacies, and controlling the cost of covered prescription drugs.

1.16 (b) A pharmacy benefit manager shall be licensed by the commissioner before conducting
1.17 business in this state. Licensure of a pharmacy benefit manager pursuant to this section is
1.18 not transferable. The license may be granted only when the commissioner is satisfied that
1.19 the entity possesses the necessary organization, background expertise, and financial integrity
1.20 to supply the services sought to be offered. The commissioner may issue a license subject
1.21 to restrictions or limitations upon the authorization, including the type of services that may
1.22 be supplied or the activities in which the entity may be engaged. The license fee is \$1,500
1.23 for the initial application and \$1,500 for each three-year renewal. All licenses are for a

2.1 period of three years. The commissioner shall develop an application for licensure that
2.2 includes the following information:

2.3 (1) the name of the pharmacy benefit manager;

2.4 (2) the address and contact telephone number for the pharmacy benefit manager;

2.5 (3) the name and address of the pharmacy benefit manager's agent for service of process
2.6 in the state;

2.7 (4) the name and address of each person beneficially interested in the pharmacy benefit
2.8 manager; and

2.9 (5) the name and address of each person with management or control over the pharmacy
2.10 benefit manager.

2.11 (c) The commissioner may suspend, revoke, or place on probation a pharmacy benefit
2.12 manager's license under any of the following circumstances:

2.13 (1) the pharmacy benefit manager has engaged in fraudulent activity that constitutes a
2.14 violation of state or federal law;

2.15 (2) the commissioner has received consumer complaints that justify an action under this
2.16 subdivision in order to protect the safety and interests of consumers;

2.17 (3) the pharmacy benefit manager fails to pay an application fee for the license; or

2.18 (4) the pharmacy benefit manager fails to comply with a requirement set forth in this
2.19 subdivision.

2.20 (d)(1) A pharmacy benefit manager shall exercise good faith and fair dealing in the
2.21 performance of its contractual duties to a purchaser. A provision in a contract that attempts
2.22 to affect a waiver or limitation of this obligation is void.

2.23 (2) A pharmacy benefit manager shall notify a purchaser in writing of any activity,
2.24 policy, or practice of the pharmacy benefit manager that directly or indirectly presents a
2.25 conflict of interest that interferes with the discharge of the pharmacy benefit manager's duty
2.26 to the purchaser to exercise good faith and fair dealing in the performance of its contractual
2.27 duties.

2.28 (e) Beginning in the second quarter after the effective date of a contract between a
2.29 pharmacy benefit manager and a health plan company, a self-insurance plan, or other
2.30 third-party payer, the pharmacy benefit manager shall, on a quarterly basis, disclose, upon
2.31 the request of the health plan company, a self-insurance plan, or other third-party payer, the

3.1 following information with respect to prescription product benefits specific to the health
3.2 plan company, a self-insurance plan, or other third-party payer:

3.3 (1) the aggregate wholesale acquisition costs from a pharmaceutical manufacturer or
3.4 wholesale drug distributor for each therapeutic category of drugs;

3.5 (2) the aggregate amount of rebates received by the pharmacy benefit manager by
3.6 therapeutic category of drugs. The aggregate amount of rebates shall include any utilization
3.7 discounts the pharmacy benefit manager receives from a pharmaceutical manufacturer or
3.8 wholesale drug distributor;

3.9 (3) any administrative fees received from a pharmaceutical manufacturer or wholesale
3.10 drug distributor;

3.11 (4) whether the pharmacy benefit manager has a contract, agreement, or other arrangement
3.12 with a pharmaceutical manufacturer to exclusively dispense or provide a drug to a health
3.13 plan company's, a self-insurance plan's, or other third-party payer's employees, insureds,
3.14 or enrollees, and the application of all consideration or economic benefits collected or
3.15 received pursuant to that arrangement;

3.16 (5) prescription drug utilization information for the health plan company's, self-insurance
3.17 plan's, or other third-party payer's enrollees or insureds that is not specific to any individual
3.18 enrollee or insured;

3.19 (6) the aggregate of payments made by the pharmacy benefit manager to pharmacies
3.20 owned or controlled by the pharmacy benefit manager;

3.21 (7) the aggregate of payments made by the pharmacy benefit manager to pharmacies
3.22 not owned or controlled by the pharmacy benefit manager; and

3.23 (8) the aggregate amount of the fees imposed on, or collected from, network pharmacies
3.24 or other assessments against network pharmacies, and the application of those amounts
3.25 collected pursuant to the contract with the health plan company, self-insurance plan, or
3.26 other third-party payer.

3.27 (f) By February 1 of each year, a licensed pharmacy benefit manager must report to the
3.28 commissioner the information required by paragraph (e), clauses (1) to (8), for the previous
3.29 calendar year.