

JAN 25 2017

A BILL FOR AN ACT

RELATING TO PHARMACY BENEFIT MANAGERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pharmacy benefit
2 managers are companies that are heavily involved in the pharmacy
3 industry and the process by which prescription drug benefits are
4 offered by insurance companies, including deciding what
5 prescription drugs should be included in an insurer's formulary,
6 setting reimbursement rates, specifying the prior authorization
7 process, setting copayment amounts, and establishing pharmacy
8 networks, among other things.

9 The legislature further finds that the actions of pharmacy
10 benefit managers can have wide-ranging impacts on pharmacies and
11 consumers in Hawaii, particularly those consumers in rural areas
12 who may have limited access to pharmacies within a pharmacy
13 benefit manager's network. Despite these potential impacts,
14 pharmacy benefit managers are not currently required to be
15 registered.



1 Accordingly, the purpose of this Act is to require pharmacy
2 benefit managers in Hawaii to register with the insurance
3 commissioner.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to title 24 to be appropriately designated
6 and to read as follows:

7 "CHAPTER

8 PHARMACY BENEFIT MANAGERS

9 § -A Definitions. As used in this chapter:

10 "Commissioner" means the insurance commissioner.

11 "Covered entity" means:

12 (1) A health benefits plan regulated under chapter 87A,
13 health insurer regulated under article 10A of chapter
14 431, mutual benefit society regulated under article 1
15 of chapter 432, or health maintenance organization
16 regulated under chapter 432D;

17 (2) A health program administered by the State in the
18 capacity of a provider of health coverage; or

19 (3) An employer, labor union, or other group of persons
20 organized in the State that provides health coverage
21 to covered persons employed or residing in the State.



1 "Covered entity" shall not include any plans issued for coverage
2 for federal employees or specified disease or limited benefit
3 health insurance as provided by section 431:10A-102.5.

4 "Covered person" means a member, policyholder, subscriber,
5 enrollee, beneficiary, dependent, or other individual
6 participating in a prescription drug benefit plan.

7 "Person" means an individual, partnership, corporation,
8 organization, or other business entity.

9 "Pharmacy benefit management" means:

10 (1) Any of the following services provided with regard to
11 the administration of pharmacy benefits:

12 (A) Mail service pharmacy;

13 (B) Claims processing, retail network management, and
14 payment of claims to pharmacies for prescription
15 drugs dispensed to covered persons;

16 (C) Clinical formulary development and management
17 services;

18 (D) Rebate contracting and administration;

19 (E) Certain patient compliance, therapeutic
20 intervention, and generic substitution programs;

21 or



- 1 (F) Disease management programs involving
2 prescription drug utilization;
- 3 (2) The procurement of prescription drugs by a pharmacy
4 benefit manager at a negotiated rate for dispensation
5 to covered persons in the State; or
- 6 (3) The administration or management of prescription drug
7 benefits provided by a covered entity for the benefit
8 of covered persons.

9 "Pharmacy benefit manager" means any person that performs
10 pharmacy benefit management, including but not limited to a
11 person or entity in a contractual or employment relationship
12 with a pharmacy benefit manager to perform pharmacy benefit
13 management for a covered entity.

14 "Prescription drug benefit plan" means a health insurance
15 plan offered by a covered entity that includes coverage for
16 prescription drugs.

17 § -B **Applicability.** This chapter shall apply to any
18 pharmacy benefit manager that provides claims processing
19 services, other prescription drug or device services, or both,
20 to covered persons who are residents of the State.



1 § -C Registration required. (a) No person shall act or
2 operate as a pharmacy benefit manager without first obtaining a
3 valid registration issued by the commissioner pursuant to this
4 chapter.

5 (b) Each person seeking to register as a pharmacy benefit
6 manager shall file with the commissioner an application on a
7 form prescribed by the commissioner. The application shall
8 include:

9 (1) The name, address, official position, and professional
10 qualifications of each individual who is responsible
11 for the conduct of the affairs of the pharmacy benefit
12 manager, including all members of the board of
13 directors; board of trustees; executive commission;
14 other governing board or committee; principal
15 officers, as applicable; partners or members, as
16 applicable; and any other person who exercises control
17 or influence over the affairs of the pharmacy benefit
18 manager;

19 (2) The name and address of the applicant's agent for
20 service of process in the State; and

21 (3) A nonrefundable application fee of \$140.



1 § -D Annual renewal requirement. (a) Each pharmacy
2 benefit manager shall renew its registration by March 31 each
3 year.

4 (b) When renewing its registration, a pharmacy benefit
5 manager shall submit to the commissioner the following:

6 (1) An application for renewal on a form prescribed by the
7 director; and

8 (2) A renewal fee of \$140.

9 (c) Failure on the part of a pharmacy benefit manager to
10 renew its registration as provided in this section shall result
11 in a penalty of \$140 and may cause the registration to be
12 revoked or suspended by the commissioner until the requirements
13 for renewal have been met.

14 § -E Penalty. Any person who acts as a pharmacy benefit
15 manager in this State without first being registered pursuant to
16 this chapter shall be subject to a fine of \$500 for each
17 violation.

18 § -F Rules. The commissioner shall adopt, amend, or
19 repeal rules pursuant to chapter 91 to carry out the purposes of
20 this chapter."



S.B. NO. 1158

1 SECTION 3. In codifying the new sections added by section
2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 4. This Act shall take effect on July 1, 2017.

6

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S.B. NO. 1158

Report Title:

Pharmacy Benefit Managers; Pharmacy Benefit Management;
Registration; Insurance Commissioner

Description:

Requires pharmacy benefit managers to register with the
insurance commissioner.

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