

HOUSE BILL NO. HB0208

Pharmacy benefit management companies.

Sponsored by: Representative(s) Edwards

A BILL

for

1 AN ACT relating to insurance; providing for the licensure
 2 and certification of pharmacy benefit management companies
 3 as specified; providing definitions; providing for an
 4 assessment; providing for administration and enforcement of
 5 the act as specified; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 26-50-101 through 26-50-110 are
 10 created to read:

11

12

CHAPTER 50

13

PHARMACY BENEFIT MANAGEMENT COMPANIES

14

15

26-50-101. Title.

16

1 This act shall be known and may be cited as the "Pharmacy
2 Benefit Management Regulation Act."

3

4 **26-50-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Board of pharmacy" or "board" means the
9 state board of pharmacy created by W.S. 33-24-102;

10

11 (ii) "Pharmacist" means any individual properly
12 licensed as a pharmacist in this state;

13

14 (iii) "Pharmacist services" means and includes
15 drug therapy and other patient care services provided by a
16 licensed pharmacist;

17

18 (iv) "Pharmacy benefit management plan" means an
19 arrangement for the delivery of pharmacist services in
20 which a pharmacy benefit management company undertakes to
21 provide, arrange for, pay for or reimburse any of the costs
22 of pharmacist services for an enrollee on a prepaid or
23 insured basis;

24

1 (v) "Pharmacy benefits management company" or
2 "PBM" means a business that administers the prescription
3 drug or device portion of health insurance plans on behalf
4 of plan sponsors;

5

6 (vi) "This act" means W.S. 26-50-101 through
7 26-50-110.

8

9 **26-50-103. Certificate of authority.**

10

11 (a) Any PBM providing a pharmacy benefit management
12 plan in this state shall obtain a certificate of authority
13 from the board of pharmacy. The term of the certificate
14 shall be four (4) years. Any organization or person may
15 apply to the board to obtain a certificate of authority to
16 establish and operate a PBM in compliance with this act
17 provided that the organization obtains from the
18 commissioner an annual license to do business in this
19 state.

20

21 (b) The board may suspend or revoke any certificate
22 of authority issued to a PBM under this act or deny an
23 application for a certificate of authority if it finds:

24

1 (i) The PBM is operating in contravention of its
2 basic organizational document;

3

4 (ii) The PBM does not arrange for pharmacist
5 services;

6

7 (iii) The PBM has failed to meet the
8 requirements for issuance of a certificate of authority as
9 set forth in this act;

10

11 (iv) The PBM is unable to fulfill its obligation
12 to furnish pharmacist services as required under its
13 pharmacy benefit management plan;

14

15 (v) The PBM is no longer financially responsible
16 and may reasonably be expected to be unable to meet its
17 obligations to enrollees or prospective enrollees;

18

19 (vi) The PBM, or any person on its behalf, has
20 advertised or merchandised its services in an untrue,
21 misrepresentative, misleading, deceptive or unfair manner;

22

23 (vii) The continued operation of the PBM would
24 be hazardous to its enrollees;

1

2 (viii) The PBM has failed to file an annual
3 statement with the commissioner in a timely manner;

4

5 (ix) The PBM has otherwise failed to
6 substantially comply with this act.

7

8 (c) If the certificate of authority of a PBM is
9 revoked, the organization shall conduct no further business
10 in this state except what is necessary for orderly
11 conclusion of its affairs. The board may permit further
12 operation of the organization as the board may find to be
13 in the best interest of the enrollees so that the enrollees
14 will be afforded the greatest practical opportunity to
15 obtain pharmacist services.

16

17 **26-50-104. License to do business.**

18

19 (a) The commissioner shall not issue an annual
20 license to do business in this state to any PBM providing
21 pharmacy benefit management plans until he is satisfied
22 that the PBM:

23

1 (i) Has paid all fees, taxes and charges
2 required by law;

3

4 (ii) Has made any deposit required by this act;

5

6 (iii) Has filed a financial statement or
7 statements and any reports, certificates or other documents
8 the commissioner considers necessary to secure a full and
9 accurate knowledge of its affairs and financial condition;

10

11 (iv) Is solvent and its financial condition,
12 method of operation and manner of doing business satisfy
13 the commissioner that it can meet its obligations to all
14 enrollees; and

15

16 (v) Has otherwise complied with all the
17 requirements of this act.

18

19 (b) The license shall be in addition to the
20 certificate of authority required by the board. A
21 nonrefundable license application fee of five hundred
22 dollars (\$500.00) shall accompany each application for a
23 license to transact business in this state. The fee shall
24 be collected by the commissioner and paid directly into an

1 account within the special revenue fund which shall provide
2 expenses for the regulation, supervision and examination of
3 all entities subject to regulation under this act.

4
5 (c) The license shall be signed by the commissioner
6 or a duly authorized agent of the commissioner and shall
7 expire on June 30 following the date on which it becomes
8 effective.

9
10 (d) Any PBM providing a pharmacy benefit management
11 plan shall obtain an annual renewal of its license from the
12 commissioner. The commissioner may refuse to renew the
13 license of any PBM or may renew the license, subject to any
14 restrictions considered appropriate by the commissioner, if
15 he finds an impairment of required capital and surplus or
16 if he finds that the PBM has not satisfied all the
17 conditions set forth in this act. The commissioner shall
18 not fail to renew the license of any PBM to do business in
19 this state without giving the PBM ten (10) days written
20 notice and giving it an opportunity to be heard. The
21 hearing may be informal, and the commissioner and the PBM
22 may agree to waive the required notice.

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24 **26-50-105. Annual statement.**

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2 (a) Any PBM providing a pharmacy benefit management
3 plan in this state shall file a statement with the
4 commissioner annually on or before March 1. The statement
5 shall be verified by at least two (2) principal officers
6 and shall cover the preceding calendar year. The statement
7 shall be on a form prescribed by the commissioner and shall
8 include:

9

10 (i) A financial statement of the organization,
11 including its balance sheet and income statement for the
12 preceding year;

13

14 (ii) The number of persons enrolled during the
15 year, the number of enrollees as of the end of the year,
16 and the number of enrollments terminated during the year;
17 and

18

19 (iii) Any other information relating to the
20 operations of the PBM required by the commissioner pursuant
21 to this act.

22

23 (b) The commissioner may extend the time prescribed
24 for any PBM for filing the annual statement for good cause

1 shown, but not to exceed sixty (60) days after the time
2 prescribed by subsection (a) of this section. Any PBM which
3 fails to file its annual statement within the time
4 prescribed by this section may have its license revoked by
5 the commissioner or its certificate of authority revoked or
6 suspended by the board until the annual statement is filed.

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8 **26-50-106. Financial examination.**

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10 The commissioner shall coordinate the financial examination
11 of a PBM that provides pharmacy benefit management plans in
12 this state to ensure an appropriate level of regulatory
13 oversight and to avoid any other duplication of effort or
14 regulation. The PBM being examined shall pay the cost of
15 the examination. The cost of the examination shall be
16 deposited into an account within the special revenue fund
17 that shall provide all expenses for the regulation,
18 supervision and examination of all entities subject to
19 regulation under this act.

20

21 **26-50-107. Assessment.**

22

23 (a) The expense of administering this act, including
24 the costs incurred by the commissioner and the board, shall

1 be assessed annually by the board against all PBMs
2 operating in this state. Before determining the assessment
3 the board shall request from the commissioner an estimate
4 of all expenses for the regulation, supervision and
5 examination of all entities subject to regulation under
6 this act. The assessment shall be in proportion to the
7 business done in this state.

8

9 (b) All fees assessed under this section and paid to
10 the board shall be deposited into an account within the
11 special revenue fund that shall provide for all expenses
12 for the regulation, supervision and examination of all
13 entities subject to regulation under this act.

14

15 (c) The board shall give each PBM notice of the
16 assessment, which shall be paid to the board on or before
17 March 1 of each year. Any PBM that fails to pay the
18 assessment on or before the date herein prescribed shall be
19 subject to a penalty imposed by the board. The penalty
20 shall be ten percent (10%) of the assessment and interest
21 for the period between the due date and date of full
22 payment. If a payment is made in an amount later found to
23 be in error, the commissioner shall correct the error
24 within fourteen (14) days of the date of the notice.

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2 (d) If an assessment made under this section is not
3 paid to the board by the prescribed date, the certificate
4 of authority of the defaulting company to transact business
5 in this state may be revoked or suspended by the board
6 until the assessment, penalty and interest have been paid.

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8 **26-50-108. PBM contracts.**

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10 Any PBM that contracts with a pharmacy or pharmacists to
11 provide pharmacists services through a pharmacy management
12 plan for enrollees in this state shall file the contract
13 with the board not less than thirty (30) days before the
14 execution of the contract. The contract shall be deemed
15 approved unless the board disapproves the contract within
16 thirty (30) days after filing with the board. Disapproval
17 shall be in writing, stating the reasons therefore, and a
18 copy shall be delivered to the PBM. The board, consistent
19 with its responsibility for protecting the public interest,
20 shall develop formal criteria for the approval and
21 disapproval of a PBM contract.

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23 **26-50-109. Enforcement.**

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1 The board shall develop formal investigation and compliance
2 procedures for any person receiving pharmacist services
3 from a PBM under this act.

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5 **26-50-110. Insolvency.**

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7 (a) If a PBM company becomes insolvent or ceases to
8 be a company in this state in any assessable or license
9 year, the company shall remain liable for the payment of
10 the assessment for the period in which it operated as a
11 pharmacy benefit management company in this state.

12

13 (b) In the event of an insolvency of a PBM company,
14 the commissioner may, after notice and hearing, levy an
15 assessment on PBMs licensed to do business in this state.
16 The assessments shall be paid quarterly to the
17 commissioner, and upon receipt by the commissioner shall be
18 paid over into an account in the special revenue fund. This
19 account shall be solely for the benefit of enrollees of the
20 insolvent PBM.

21

22 **Section 2.** This act is effective July 1, 2003.

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(END)