

SENATE BILL No. 360

By Committee on Financial Institutions and Insurance

1-22

1 AN ACT concerning insurance; enacting the Kansas consumer prescription
2 protection and accountability act; providing for the regulation of
3 pharmacy benefits managers; requiring the registration of auditing
4 entities; establishing procedures and requirements for the conduct of
5 pharmacy audits, pharmacy benefits manager reporting and
6 examinations; amending K.S.A. 40-222 and 40-3831 and K.S.A. 2025
7 Supp. 40-202, 40-3821, 40-3822, 40-3823, 40-3824, 40-3825, 40-3826,
8 40-3827 and 40-3828a and repealing the existing sections; also
9 repealing K.S.A. 40-3828, 65-16,121, 65-16,122, 65-16,123, 65-
10 16,124, 65-16,125 and 65-16,126 and K.S.A. 2025 Supp. 40-3829 and
11 40-3830.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) An auditing entity conducting a pharmacy audit
15 under this act shall:

16 (1) Keep information collected during a pharmacy audit confidential,
17 except that such auditing entity may share the information with the
18 pharmacy benefits manager, the covered entity for which the audit is being
19 conducted and any regulatory agency and law enforcement agency as
20 required by law;

21 (2) provide the pharmacy being audited with at least 14 calendar days'
22 prior written notice before conducting such audit unless both parties agree
23 otherwise. If the pharmacy requests a delay of the audit, such pharmacy
24 shall provide notice to the pharmacy benefits manager within 72 hours of
25 receiving notice of the audit;

26 (3) accept paper or electronic signature logs documenting the delivery
27 of prescription or nonproprietary drugs and pharmacist services to a health
28 plan beneficiary or such beneficiary's caregiver or guardian;

29 (4) provide a complete list of reviewed pharmacy records to an
30 authorized representative of the pharmacy prior to leaving the pharmacy
31 after the on-site portion of the audit has been completed;

32 (5) (A) provide the pharmacy with a written preliminary report of the
33 pharmacy audit. Such report shall:

34 (i) Be delivered to the pharmacy or the pharmacy's corporate parent

1 within 60 calendar days after completion of the on-site portion of the
2 pharmacy audit;

3 (ii) include contact information for the auditing entity that conducted
4 the pharmacy audit and an appropriate and accessible contact person,
5 including such person's telephone number, facsimile number, email
6 address and the auditing entity name and address so that audit results,
7 procedures and any discrepancies can be reviewed; and

8 (iii) include, but not be limited to, claim level information for any
9 discrepancy found and total dollar amounts of claims subject to recovery;
10 and

11 (B) a pharmacy shall have at least 30 calendar days following receipt
12 of the preliminary audit report to respond to the findings of the preliminary
13 report;

14 (6) deliver the final written report to the pharmacy or the pharmacy's
15 corporate parent within 90 calendar days after completion of the pharmacy
16 audit. Such report shall include any response provided to the auditing
17 entity by the pharmacy or corporate parent and consider and address all
18 such responses. The final audit report may be delivered electronically; and

19 (7) upon request of the plan sponsor, provide a copy of the final
20 report to the plan sponsor, including the disclosure of any money recouped
21 in the audit. The auditing entity shall provide a copy of the report to the
22 commissioner upon request. { ***No report provided to the commissioner
shall contain the protected health information of any individual.*** }
23 Reports provided to the commissioner shall be confidential by law, shall
24 not be subject to subpoena and may not be made public by the
25 commissioner or any other person, except to the extent otherwise
26 specifically provided in the Kansas open records act, K.S.A. 45-215 et
27 seq., and amendments thereto.

28 (b) An auditing entity conducting a pharmacy audit as provided in
29 this act may:

30 (1) Have access to a pharmacy's previous audit report only if the
31 report was prepared by that auditing entity, except as otherwise provided
32 by federal or state law; and

33 (2) not charge back, recoup or collect penalties from a pharmacy until
34 the time to file an appeal of a final pharmacy audit has passed or the
35 appeals process has been exhausted, whichever is later.

36 (c) An auditing entity conducting a pharmacy audit as provided in
37 this act shall not:

38 (1) Compensate such entity's employees or contractors contracted to
39 conduct a pharmacy audit based solely on the amount claimed or the actual
40 amount recouped during such audit;

41 (2) during the first five days of any month, initiate or schedule a
42 pharmacy audit for any pharmacy averaging more than 600 prescriptions

1 filled per week without the express consent of the pharmacy;

2 (3) use extrapolation to calculate penalties or amounts to be charged

3 back or recouped unless otherwise required by federal law;

4 (4) include dispensing fees in the calculation of overpayments unless

5 a prescription is considered a misfill; and

6 (5) (A) seek any fine, charge back, recoupment or other adjustment

7 for a dispensed product or any portion of a dispensed product unless one or

8 more of the following has occurred:

9 (i) Fraud or other intentional and willful misrepresentation has been

10 committed by the pharmacy, as evidenced by a review of the claims data,

11 statements, physical review or other investigative method;

12 (ii) the pharmacy has dispensed a product in excess of the benefit

13 design as established by the plan sponsor;

14 (iii) the pharmacy has not filled prescriptions in accordance with the

15 prescriber's order; or

16 (iv) an actual underpayment or overpayment has been made to the

17 pharmacy; and

18 (B) any fee, charge back, recoupment or other adjustment shall be

19 limited to the actual financial harm associated with the dispensed product

20 or portion of the dispensed product or the actual underpayment or

21 overpayment, pursuant to subparagraph (A).

22 (d) A pharmacy audit that involves clinical judgment shall be

23 conducted by or in consultation with a pharmacist. Such pharmacy audit

24 shall not cover:

25 (1) A period of more than 24 months after the date that a claim was

26 submitted by the pharmacy to the pharmacy benefits manager or covered

27 entity unless a longer period is required by law; or

28 (2) more than 250 prescriptions. A refill does not constitute a separate

29 prescription for the purposes of this paragraph.

30 (e) When a pharmacy audit is performed, a pharmacy may use:

31 (1) Authentic and verifiable statements or records, including, but not

32 limited to, medication administration records of a nursing home, assisted

33 living facility, hospital or healthcare provider with prescriptive authority to

34 validate the pharmacy record and delivery; or

35 (2) any valid prescription, including, but not limited to, medication

36 administration records, facsimiles, electronic prescriptions, electronically

37 stored images of prescriptions, electronically created annotations or

38 documentation of telephone calls from the prescribing healthcare provider

39 or practitioner's agent to validate claims in connection with prescriptions

40 or changes in prescriptions or refills of prescription or nonproprietary

41 drugs. Documentation of an oral prescription order that has been verified

42 by the prescribing healthcare provider shall be deemed to meet the

43 provisions of this subsection for the initial audit review.

1 (f) A pharmacy that is the subject of a pharmacy audit may not be
2 subject to a charge back or recoupment for a clerical or recordkeeping
3 error in a required document or record, including a typographical or
4 computer error, unless the error resulted in overpayment to the pharmacy.
5 Such pharmacy may appeal a final audit report in accordance with
6 procedures established by the entity conducting the pharmacy audit.

7 (g) If an identified discrepancy in a pharmacy audit exceeds \$25,000,
8 future payments made by the pharmacy benefits manager to the pharmacy
9 in excess of such amount may be withheld pending adjudication of an
10 appeal.

11 (h) No interest may accrue for any party during an audit period,
12 beginning with the notice of the pharmacy audit and ending with the
13 conclusion of the appeals process.

14 (i) Except for medicare claims, approval of drug, prescriber or patient
15 eligibility upon adjudication of a claim may not be reversed unless the
16 pharmacy or pharmacist obtained adjudication by fraud or
17 misrepresentation of claims elements.

18 (j) The provisions of this section shall not apply to a pharmacy audit
19 if:

20 (1) Fraud, waste, abuse or other intentional misconduct is indicated
21 by physical review or review of claims data or statements; or

22 (2) other investigative methods indicate that the pharmacy is or has
23 been engaged in criminal wrongdoing, fraud or other intentional or willful
24 misrepresentation.

25 (k) This section shall be a part of and supplemental to the Kansas
26 consumer prescription protection and accountability act.

27 New Sec. 2. (a) No person shall act or operate as an auditing entity
28 without first registering with the commissioner.

29 (b) Each person seeking to register as an auditing entity shall file
30 with the commissioner an application upon a form prescribed by the
31 commissioner accompanied by a nonrefundable registration fee in an
32 amount of not to exceed \$500. At a minimum, the application form shall
33 include the following:

34 (1) Identity, address and telephone number of the applicant;

35 (2) name, business address and telephone number of the contact
36 person for the applicant; and

37 (3) federal employer identification number for the applicant, if
38 applicable.

39 (c) The commissioner shall issue a certificate of registration to an
40 applicant if the commissioner determines that the applicant has submitted
41 a completed application and paid the required registration fee.

42 (d) The certificate of registration is nontransferable and shall
43 prominently list the expiration date of the registration.

1 (e) Each auditing entity registration shall expire on March 31 of each
2 year and may be renewed annually at the request of the pharmacy auditing
3 entity on or before March 31 of each year. The application for renewal
4 shall be submitted by the auditing entity on a form prescribed by the
5 commissioner and accompanied by a renewal fee in an amount of not to
6 exceed \$250.

7 (f) If a registered auditing entity fails to provide a completed
8 application for renewal by March 31 or if the renewal fee is not paid by
9 March 31, then a penalty fee shall be assessed in an amount of not to
10 exceed \$250. The auditing entity shall remit the renewal fee plus penalty
11 fee before the commissioner shall issue such auditing entity's registration
12 renewal.

13 (g) An auditing entity's registration may be suspended by the
14 commissioner until the renewal application has been received and the
15 renewal fee and any penalty assessed has been paid.

16 (h) Not later than December 1 of each year, the commissioner shall
17 set and cause to be published in the Kansas register the fees required
18 pursuant to this section for the next calendar year.

19 (i) This section shall be a part of and supplemental to the Kansas
20 consumer prescription protection and accountability act.

21 New Sec. 3. (a) Each pharmacy benefits manager shall:

22 (1) For each health plan or covered entity for which such pharmacy
23 benefits manager provides pharmacy benefits management services,
24 annually or more frequently upon the commissioner's request, report to the
25 commissioner the aggregate:

26 (A) Amount of rebates received by the pharmacy benefits manager;

27 (B) amount of rebates distributed to each health plan or covered
28 entity contracted with the pharmacy benefits manager;

29 (C) ~~amount of rebates passed on to the enrollees of each health plan
30 or covered entity at the point of sale that reduced such enrollees'
31 applicable deductibles, copayments, coinsurance or other cost sharing
32 amounts;~~

33 (D) and individual amount paid by the health plan or covered entity to
34 the pharmacy benefits manager for pharmacist services itemized by
35 pharmacy, product and goods and services; and

36 (E) ~~(D)~~ and individual amount that a pharmacy benefits manager paid
37 for pharmacist services itemized by pharmacy, product and goods and
38 services;

39 (2) annually, report to the commissioner and each contracted health
40 plan or covered entity the aggregate difference between the amount that
41 the pharmacy benefits manager reimbursed pharmacies and the amount
42 that the pharmacy benefits manager charged such health plan; and

43 (3) (A) quarterly, report to the commissioner on all drugs appearing

1 on the national average drug acquisition cost list that are reimbursed at
2 10% and below the national average drug acquisition cost and all drugs
3 that are reimbursed at 10% and above the national average drug
4 acquisition cost.

5 (B) For each drug in the report, the pharmacy benefits manager shall
6 include:

- 7 (i) The month that the drug was dispensed;
- 8 (ii) the quantity of the drug dispensed;
- 9 (iii) the amount that the pharmacy was reimbursed;
- 10 (iv) whether the dispensing pharmacy was an affiliate of the
11 pharmacy benefits manager;
- 12 (v) whether the drug was dispensed pursuant to a government health
13 plan; and
- 14 (vi) the average national drug acquisition cost for the month that the
15 drug was dispensed.

16 (C) The pharmacy benefits manager shall publish a copy of this
17 report on the pharmacy benefits manager's publicly available website for at
18 least 24 months.

19 (D) This report shall be exempt from the confidentiality provisions of
20 subsection (d).

21 (b) (1) Annually, each health benefit plan or covered entity shall:

22 (A) Report to the commissioner the aggregate amount of credits,
23 rebates, discounts or other such payments received by the health benefit
24 plan or covered entity from a pharmacy benefits manager or drug
25 manufacturer; and

26 (B) ~~disclose to the commissioner the extent to which such credits,
27 rebates, discounts or other such payments were passed on to reduce
28 insurance premiums or rates.~~

29 (2) ~~The commissioner shall consider the information in such report
30 when reviewing any premium rates charged for any individual or group
31 accident and health insurance policy as provided in K.S.A. 40-2215 and
32 40-3209, and amendments thereto.~~*Use of annual reporting provided
33 pursuant to this subsection by health benefit plans and covered entities
34 shall be limited to verification of data pursuant to this subsection for
35 compliance purposes}.*

36 (c) *{No report provided to the commissioner shall include the
37 protected health information of any individual.*

38 (d) *{The reports required by this section shall be filed electronically
39 on a form and in a manner prescribed by the commissioner.*

40 (d) *{(e)} With the exception of the report described in subsection (a)
41 (3), all data and information provided by the pharmacy benefits manager,
42 health plan or covered entity, pursuant to the reporting requirements
43 established by this section, shall:*

1 (1) Be considered proprietary and confidential; and
2 (2) not be subject to disclosure under the Kansas open records act,
3 K.S.A. 45-215 et seq., and amendments thereto.

4 ~~(e)(f)~~ This section shall be a part of and supplemental to the Kansas
5 consumer prescription protection and accountability act.

6 New Sec. 4. (a) The commissioner may examine the affairs of a
7 pharmacy benefits manager for compliance with the requirements of this
8 act.

9 (b) Every examination conducted under this section shall follow the
10 examination procedures and requirements provided in K.S.A. 40-222, and
11 amendments thereto. The commissioner may assess the costs of the
12 examination to the pharmacy benefits manager.

13 (c) (1) A pharmacy benefits manager shall not be subject to the
14 provisions of K.S.A. 40-222(a), and amendments thereto, pertaining to the
15 frequency of financial examinations of insurers.

16 (2) The commissioner may examine a pharmacy benefits manager,
17 pursuant to this section, whenever the commissioner believes it is
18 reasonably necessary to ensure compliance with this act.

19 (d) ***(1) No protected health information shall be provided to the
20 commissioner pursuant to this section.***

21 (2) }The information and data obtained by the commissioner from a
22 pharmacy benefits manager under this section shall be considered
23 confidential by law and exempt from disclosure in accordance with K.S.A.
24 40-222, and amendments thereto, and shall not be subject to disclosure
25 under the Kansas open records act, K.S.A. 45-215 et seq., and amendments
26 thereto.

27 (e) This section shall be a part of and supplemental to the Kansas
28 consumer prescription protection and accountability act.

29 New Sec. 5. (a) A pharmacy benefits manager shall not:

30 (1) Collect from a pharmacy, pharmacist or pharmacy technician any
31 cost share charged to a covered person that exceeds the total submitted
32 charges by the pharmacy or pharmacist to the pharmacy benefits manager;

33 (2) (A) reimburse a pharmacy, pharmacist or pharmacy technician for
34 a prescription drug or pharmacy service any amount that is less than the
35 national average drug acquisition cost for the prescription drug or
36 pharmacy service at the time that the drug is administered or dispensed,
37 plus a professional dispensing fee that is the greater of \$10.50 or the
38 dispensing fee calculated pursuant to K.A.R. 30-5-94; or

39 (B) if the national average drug acquisition cost is not available at the
40 time that a drug is administered or dispensed, a pharmacy benefits
41 manager shall not reimburse a pharmacy, pharmacist or pharmacy
42 technician an amount that is less than the wholesale acquisition cost of the
43 drug as defined in 42 U.S.C. § 1395w-3a(c)(6)(B) plus a professional

1 dispensing that is the greater of \$10.50 or the dispensing fee calculated
2 pursuant to K.A.R. 30-5-94;

3 (3) reimburse a pharmacy or pharmacist for a prescription drug or
4 pharmacy service any amount less than the amount that the pharmacy
5 benefits manager would reimburse itself or an affiliate for the same
6 prescription drug or pharmacy service; and

7 (4) ~~not~~ engage in any practice that:

8 (A) Includes imposing a point-of-sale fee or retroactive fee; or
9 (B) derives any revenue from a pharmacy or covered person in
10 connection with performing pharmacy benefits management services. The
11 provisions of this section shall not be construed to prohibit pharmacy
12 benefits managers from processing deductibles or copayments approved
13 by a covered person's health benefit plan.

14 (b) A pharmacy benefits manager shall:

15 (1) Charge a health benefit plan the same price for a prescription drug
16 as such pharmacy benefits manager pays a pharmacy for the prescription
17 drug; and

18 (2) for purposes of complying with the provisions of subsection (a)
19 (2), utilize the most recently published monthly national average drug
20 acquisition cost as a point of reference for the ingredient drug product
21 component of a pharmacy's reimbursement for drugs appearing on the
22 national average drug acquisition cost list.

23 (c) (1) Any methodology utilized by a pharmacy benefits manager in
24 connection with reimbursement shall be filed with the commissioner at the
25 time of initial licensure and at any time thereafter that any methodology is
26 changed by the pharmacy benefits manager.

27 (2) A methodology shall not be subject to disclosure and shall be
28 treated as confidential and exempt from disclosure under the Kansas open
29 records act, K.S.A. 45-215 et seq., and amendments thereto.

30 (3) Every filed methodology shall comply with the provisions of
31 subsection (a)(2), and no pharmacy benefits manager shall enter into a
32 contract with a pharmacy that provides for reimbursement methodology
33 that is impermissible under the provisions of subsection (a)(2).

34 (d) (1) ~~A covered individual's defined cost sharing for each~~
35 ~~prescription drug shall be calculated at the point of sale based on a price~~
36 ~~that is reduced by an amount equal to at least 100% of all rebates received~~
37 ~~or to be received in connection with the dispensing or administration of the~~
38 ~~prescription drug.~~

39 (2) Any rebate ~~greater than the~~ **not applied to reduce a covered**
40 **individual's** defined cost sharing **by the insurer** shall be passed on to the
41 health plan ~~to reduce premiums~~. Nothing in this act shall be deemed to
42 **require or** preclude an insurer from decreasing a covered person's
43 **individual's** defined cost sharing by ~~an amount greater than what is~~

1 previously stated *the application of rebates*.

2 (e) *The provisions of this section shall not apply to self-funded*
3 *health plans subject to the provisions of ERISA, the federal employee*
4 *retirement income security act of 1974.*

5 (f) The commissioner may order reimbursement to ~~an insured a~~
6 ~~covered person~~, pharmacy or dispenser who has incurred a monetary loss
7 as a result of a violation of this act.

8 (f)(g) This section shall be a part of and supplemental to the Kansas
9 consumer prescription protection and accountability act.

10 New Sec. 6. (a) If any provision of this act or application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of this act that can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

15 (b) This section shall be a part of and supplemental to the Kansas
16 consumer prescription protection and accountability act.

17 Sec. 7. K.S.A. 2025 Supp. 40-202 is hereby amended to read as
18 follows: 40-202. *Except as provided in the Kansas consumer prescription*
19 *protection and accountability act*, nothing contained in this code shall
20 apply to:

21 (a) Grand or subordinate lodges of any fraternal benefit society that
22 admits to membership only persons engaged in one or more hazardous
23 occupations in the same or similar line of business or to fraternal benefit
24 societies as defined in and organized under article 7 of chapter 40 of the
25 Kansas Statutes Annotated, and amendments thereto, unless they be
26 expressly designated;

27 (b) the employees of a particular person, firm, or corporation;

28 (c) mercantile associations that simply guarantee insurance to each
29 other in the same lines of trade and do not solicit insurance from the
30 general public;

31 (d) the Swedish mutual aid association of Rapp, Osage county,
32 Kansas;

33 (e) the Scandia mutual protective insurance company of Chanute,
34 Kansas;

35 (f) the Seneca and St. Benedict mutual fire insurance company of
36 Nemaha county, Kansas;

37 (g) the mutual insurance system practiced in the Mennonite church, in
38 accordance with an old custom, either by the congregation themselves or
39 by special associations, of its members in Kansas;

40 (h) the Kansas state high-school activities association;

41 (i) the mutual aid association of the church of the brethren;

42 (j) a voluntary noncontractual mutual aid arrangement whereby the
43 needs of participants are announced and accommodated through

1 subscriptions to a monthly publication;

2 (k) a self-funded health plan established or maintained for its
3 employees by the state or a subdivision of the state, a school district, any
4 public authority or by a county or city government or any political
5 subdivision, agency or instrumentality thereof; or

6 (l) a self-funded health plan established or maintained for its
7 employees by a church or by a convention or association of churches that
8 is exempt from tax under section 501 of the internal revenue code.

9 Sec. 8. K.S.A. 40-222 is hereby amended to read as follows: 40-222.

10 (a) Whenever the commissioner of insurance deems it necessary but at
11 least once every five years, the commissioner may make, or direct to be
12 made, a financial examination of any insurance company in the process of
13 organization, or applying for admission or doing business in this state. In
14 addition, at the commissioner's discretion the commissioner may make, or
15 direct to be made, a market regulation examination of any insurance
16 company doing business in this state.

17 (b) *Whenever the commissioner deems it necessary, the commissioner
18 may make or direct to be made a financial examination or market
19 regulation examination of any pharmacy benefits manager that conducts
20 business in Kansas.*

21 (c) In scheduling and determining the nature, scope and frequency of
22 examinations of financial condition, the commissioner shall consider such
23 matters as the results of financial statement analyses and ratios, changes in
24 management or ownership, actuarial opinions, reports of independent
25 certified public accountants and other criteria as set forth in the examiner's
26 handbook adopted by the national association of insurance commissioners
27 and in effect *at the time of such examination as announced by the
28 commissioner pursuant to K.S.A. 40-2,256, and amendments thereto*, when
29 the commissioner exercises discretion under this subsection.

30 (e)(d) For the purpose of such—~~examination~~ *examinations*, the
31 commissioner of insurance or the persons appointed by the commissioner,
32 ~~for the purpose of making such examination~~ shall have ~~free unrestricted~~
33 access to the books and papers of any such *insurance company or
34 pharmacy benefits manager that relate to its such insurance
35 company's or pharmacy benefits manager's business* and to the books and
36 papers kept by any of its agents and may examine under oath, which the
37 commissioner or the persons appointed by the commissioner are
38 empowered to administer, the directors, officers, agents or employees of
39 any such *insurance company or pharmacy benefits manager* in relation to
40 ~~its such insurance company's or pharmacy benefits manager's affairs,~~
41 transactions and condition.

42 (d)(e) The commissioner may also examine or investigate any person,
43 or the business of any person, in so far as such examination or

1 investigation is, in the sole discretion of the commissioner, necessary or
2 material to the examination of the *insurance company or pharmacy*
3 *benefits manager*; but such examination or investigation shall not infringe
4 upon or extend to any communications or information accorded privileged
5 or confidential status under any other laws of this state.

6 (e)(f) In lieu of examining the financial condition of a foreign or alien
7 insurance company or *pharmacy benefits manager*, the commissioner of
8 insurance may accept the report of ~~the~~ *an* examination made by or upon
9 the authority of the company's state of domicile or port-of-entry state ~~until~~
10 ~~January 1, 1994. Thereafter, such reports as they relate to financial~~
11 ~~condition may only be accepted if:~~

12 (1) *At the time of the examination*, the insurance department
13 conducting the examination was ~~at the time of the examination~~ accredited
14 under the national association of insurance commissioners' financial
15 regulation standards and accreditation program; or

16 (2) the examination ~~is~~ was performed under the supervision of an
17 accredited insurance department, or with the participation of one or more
18 examiners who are employed by such an accredited insurance department
19 and who, after a review of the examination work papers and report, state
20 under oath that the examination was performed in a manner consistent
21 with the standards and procedures required by ~~their~~ *such insurance*
22 *company's insurance department.*

23 (f)(g) Upon determining that an examination should be conducted, the
24 commissioner or the commissioner's designee shall appoint one or more
25 examiners to perform the examination and instruct ~~them~~ *such examiner* as
26 to the scope of the examination. In conducting an examination of financial
27 condition, the examiner shall observe those guidelines and procedures set
28 forth in the *version of the examiners' handbook adopted promulgated by*
29 the national association of insurance commissioners *in effect at the time of*
30 *such examination as announced by the commissioner pursuant to K.S.A.*
31 *40-2,256, and amendments thereto.* The commissioner may also employ
32 such other guidelines or procedures as the commissioner may deem
33 appropriate.

34 (g)(h) The refusal of any *insurance company or pharmacy benefits*
35 *manager*, by its officers, directors, employees or agents, to submit to
36 examination or to comply with any reasonable written request of the
37 examiners shall be grounds for suspension or refusal of, or nonrenewal of
38 any license or authority held by the company to engage in an insurance or
39 other business subject to the commissioner's jurisdiction. Any such
40 proceedings for suspension, revocation or refusal of any license or
41 authority shall be conducted in accordance with the provisions of the
42 Kansas administrative procedure act.

43 (h)(i) When making an examination under this act, the commissioner

1 may retain attorneys, appraisers, independent actuaries, independent
2 certified public accountants or other professionals and specialists as
3 examiners, the reasonable cost of which shall be borne by the *insurance*
4 company ~~which or~~ *or pharmacy benefits manager* that is the subject of the
5 examination.

6 (f)(j) Nothing contained in this act shall be construed to limit the
7 commissioner's authority to:

8 (1) Terminate or suspend any examination in order to pursue other
9 legal or regulatory action pursuant to the insurance laws of this state; *or*

10 (j) ~~Nothing contained in this act shall be construed to limit the~~
11 ~~commissioner's authority~~

12 (2) to use and, if appropriate, to make public any final or preliminary
13 examination report in the furtherance of any legal or regulatory action
14 which the commissioner may, in the commissioner's sole discretion, deem
15 appropriate.

16 (k) (1) No later than 30 days following completion of the examination
17 or at such earlier time as the commissioner shall prescribe, the examiner in
18 charge shall file with the department a verified written report of
19 examination under oath. No later than 30 days following receipt of the
20 verified report, the department shall transmit the report to the *insurance*
21 company *or pharmacy benefits manager* examined, together with a notice
22 which shall afford such *insurance* company *or pharmacy benefits*
23 *manager* examined a reasonable opportunity of not more than 30 days to
24 make a written submission or rebuttal with respect to any matters
25 contained in the examination report.

26 (2) Within 30 days of the end of the period allowed for the receipt of
27 written submissions or rebuttals, the commissioner shall fully consider and
28 review the report, together with any written submissions or rebuttals and
29 any relevant portions of the examiners workpapers and enter an order:

30 (A) Adopting the examination report as filed or with modification or
31 corrections. If the examination report reveals that the *insurance* company
32 *or pharmacy benefits manager* is operating in violation of any law,
33 regulation or prior order of the commissioner, the commissioner may order
34 the *insurance* company *or pharmacy benefits manager* to take any action
35 the commissioner considers necessary and appropriate to cure such
36 violations; or

37 (B) rejecting the examination report with directions to the examiners
38 to reopen the examination for purposes of obtaining additional data,
39 documentation or information, and refiling pursuant to subsection (k); or

40 (C) call and conduct a fact-finding hearing in accordance with K.S.A.
41 40-281, and amendments thereto, for purposes of obtaining additional
42 documentation, data, information and testimony.

43 (3) All orders entered as a result of revelations contained in the

1 examination report shall be accompanied by findings and conclusions
2 resulting from the commissioner's consideration and review of the
3 examination report, relevant examiner workpapers and any written
4 submissions or rebuttals. Within 30 days of the issuance of the adopted
5 report, the *insurance company or pharmacy benefits manager* shall file
6 affidavits executed by each of its directors stating under oath that they
7 have received a copy of the adopted report and related orders.

8 (4) Upon the adoption of the examination report, the commissioner
9 shall hold the content of the examination report as private and confidential
10 information for a period of 30 days except to the extent provided in
11 paragraph (5). Thereafter, the commissioner may open the report for public
12 inspection so long as no court of competent jurisdiction has stayed its
13 publication.

14 (5) (A) Except as provided in paragraph (B), nothing contained in this
15 act shall prevent or be construed as prohibiting the commissioner from
16 disclosing the content of an examination report, preliminary examination
17 report or results, or any matter relating thereto, at any time to:

18 (i) The insurance department of this or any other state or country;
19 (ii) law enforcement officials of this or any other state or agency of
20 the federal government or any other country; or
21 (iii) officials of any agency of another country.

22 (B) The commissioner shall not share any information listed in
23 paragraph (A) unless the agency or office receiving the report or matters
24 relating thereto agrees in writing to hold it confidential and in a manner
25 consistent with this act.

26 (6) In the event the commissioner determines that regulatory action is
27 appropriate as a result of any examination, the commissioner may initiate
28 any proceedings or actions as provided by law.

29 (7) All working papers, recorded information, documents and copies
30 thereof produced by, obtained by or disclosed to the commissioner or any
31 other person in the course of an examination made under this act including
32 analysis by the commissioner pertaining to either the financial condition or
33 the market regulation of ~~a~~ *an insurance company or pharmacy benefits*
34 *manager* must be given confidential treatment and are not subject to
35 subpoena and may not be made public by the commissioner or any other
36 person, except to the extent otherwise specifically provided in K.S.A. 45-
37 215 et seq., and amendments thereto. Access may also be granted to the
38 national association of insurance commissioners and its affiliates. Such
39 parties must agree in writing prior to receiving the information to provide
40 to it the same confidential treatment as required by this section, unless the
41 prior written consent of the *insurance company or pharmacy benefits*
42 *manager* to which it pertains has been obtained.

43 (8) Whenever it appears to the commissioner of insurance from such

1 examination or other satisfactory evidence that the solvency of any such
2 insurance company is impaired, or that it is doing business in violation of
3 any of the laws of this state, or that its affairs are in an unsound condition
4 so as to endanger its policyholders, the commissioner of insurance shall
5 give the company a notice and an opportunity for a hearing in accordance
6 with the provisions of the Kansas administrative procedure act. If the
7 hearing confirms the report of the examination, the commissioner shall
8 suspend the certificate of authority of such company until its solvency
9 shall have been fully restored and the laws of the state fully complied with.
10 The commissioner may, if there is an unreasonable delay in restoring the
11 solvency of such company and in complying with the law, revoke the
12 certificate of authority of such company to do business in this state. Upon
13 revoking any such certificate the commissioner shall commence an action
14 to dissolve such company or to enjoin the same from doing or transacting
15 business in this state.

16 Sec. 9. K.S.A. 2025 Supp. 40-3821 is hereby amended to read as
17 follows: 40-3821. (a) K.S.A. 40-3821 ~~through 40-3828, and amendments~~
18 ~~thereto, and K.S.A. 2025 Supp. 40-3828a et seq., and amendments thereto,~~
19 shall be known and may be cited as the ~~pharmacy benefits manager~~
20 ~~liensure~~ *Kansas consumer prescription protection and accountability act*.

21 (b) ~~On and after January 1, 2023, a~~ No person shall ~~not~~ perform, act
22 or do business in this state as a ~~pharmacy benefits manager~~ unless such
23 person has a valid license issued by the commissioner pursuant to this act.

24 (c) This act shall apply to any ~~pharmacy benefits manager~~ that
25 provides claims processing services, other prescription drug or device
26 services, or both, to covered persons who are residents of this state.

27 (d) ~~This act shall not apply to any ~~pharmacy benefits manager~~ that~~
28 ~~holds a certificate of registration as an administrator pursuant to K.S.A.~~
29 ~~40-3810, and amendments thereto~~*This act shall also apply to any audit of*
30 *the records of a pharmacy conducted by a managed care company, third-*
31 *party payer, ~~pharmacy benefits manager~~ or any entity that represents a*
32 *covered entity or health benefit plan and the registration of auditing*
33 *entities.*

34 (e) A license issued in accordance with the ~~pharmacy benefits~~
35 ~~manager licensure~~ *Kansas consumer prescription protection and*
36 *accountability act* shall be nontransferrable.

37 Sec. 10. K.S.A. 2025 Supp. 40-3822 is hereby amended to read as
38 follows: 40-3822. As used in this act:

39 (a) "Act" means the ~~pharmacy benefits manager licensure~~ *Kansas*
40 *consumer prescription protection and accountability act*.

41 (b) "Affiliate" means a ~~pharmacy, pharmacist or pharmacy~~
42 *technician which, either directly or indirectly through one or more*
43 *intermediaries:*

1 (1) *Has an investment or ownership interest in a pharmacy benefits*
2 *manager licensed under this chapter;*

3 (2) *shares common ownership with a pharmacy benefits manager*
4 *licensed under this chapter; or*

5 (3) *has an investor or ownership interest holder that is a pharmacy*
6 *benefits manager licensed under this article.*

7 (c) *"Auditing entity" means a person that performs a pharmacy audit,*
8 *including a pharmacy benefits manager, managed care organization or*
9 *third-party payer.*

10 (b)(d) "Commissioner" means the commissioner of insurance as
11 defined by K.S.A. 40-102, and amendments thereto.

12 (e)(e) (1) "Covered entity" means:

13 (A) ~~A nonprofit hospital or medical service corporation, health~~
14 ~~insurer, health benefit plan or health maintenance organization;~~

15 (B) ~~a health program administered by a department or the state in the~~
16 ~~capacity of provider of health coverage; or~~

17 (C) ~~an employer, labor union or other group of persons organized in~~
18 ~~the state that provides health coverage to covered individuals who are~~
19 ~~employed or reside in the state a health insurance company, health~~
20 ~~maintenance organization, hospital, medical or dental corporation,~~
21 ~~healthcare corporation, any entity that provides, administers or manages~~
22 ~~a self-funded health benefit plan including a governmental plan or any~~
23 ~~other entity that provides prescription drug coverages unless specifically~~
24 ~~excluded in paragraph (2).~~

25 (2) "Covered entity" does not include ~~any~~:

26 (A) ~~Self-funded plan that is exempt from state regulation pursuant to~~
27 ~~ERISA;~~

28 (B) ~~plan issued for coverage for federal employees; or~~

29 (C) ~~health plan that provides coverage only for accidental injury,~~
30 ~~specified disease, hospital indemnity, medicare supplement, disability~~
31 ~~income, long term care or other limited benefit health insurance policies~~
32 ~~and contracts insurers that provide coverage under a policy of property or~~
33 ~~casualty insurance or workers compensation insurance.~~

34 (f) "Covered person" means a member, policyholder, subscriber,
35 enrollee, beneficiary, dependent or other individual participating in a
36 health benefit plan.

37 (g) "Defined cost sharing" means a deductible payment, copayment
38 or coinsurance amount imposed on an enrollee for a covered prescription
39 drug under the enrollee's health plan.

40 (e)(h) "Department" means the ~~insurance~~ department Kansas
41 ~~department of insurance.~~

42 (f)(i) "ERISA" means the federal employee retirement income
43 security act of 1974.

1 (g) "Health benefit plan" means the same as defined in K.S.A. 40-
2 4602, and amendments thereto.

3 (h) "Health insurer" means the same as defined in K.S.A. 40-4602,
4 and amendments thereto.

5 (i) "Maximum allowable cost" or "MAC" means any term or
6 methodology that a pharmacy benefits manager or a healthcare insurer
7 may use to establish the maximum amount that a pharmacy benefits
8 manager will reimburse a pharmacy or a pharmacist for generic
9 drugs(l) "Misfill" means a prescription:

10 (1) That was not dispensed;

11 (2) error;

12 (3) that had a request by the pharmacy to authorize the filling of such
13 prescription that was denied by the prescriber; or

14 (4) that had an extra dispensing fee charged.

15 (m) "National average drug acquisition cost" means the monthly
16 survey of retail pharmacies conducted by the federal centers for medicare
17 and medicaid services to determine the average acquisition cost for
18 medicaid-covered outpatient drugs.

19 (n) "Nonproprietary drug" means a drug containing any quantity of
20 any controlled substance or any drug that is required by any applicable
21 federal or state law to be dispensed only by prescription.

22 (o) "Person" means an individual, partnership, corporation,
23 organization or other business entity.

24 (p) "Pharmacy audit" means an audit conducted by or on behalf of
25 an auditing entity of any records of a pharmacy for prescription or
26 nonproprietary drugs dispensed by a pharmacy to a covered person.

27 (t)(q) "Pharmacy benefits management" means:

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

30 (A) Mail service pharmacy;

31 (B) claims processing, retail network management and payment of
32 claims to pharmacies for prescription drugs dispensed to covered
33 individuals;

34 (C) clinical formulary development and management services;

35 (D) rebate contracting and administration;

36 (E) certain patient compliance, therapeutic intervention and generic
37 substitution programs; or

38 (F) disease management programs involving prescription drug
39 utilization; and

40 (2) (A) the procurement of prescription drugs by a prescription
41 benefits manager at a negotiated rate for dispensation to covered
42 individuals within this state; or

43 (B) the administration or management of prescription drug benefits

1 provided by a covered insurance entity for the benefit of covered
2 individuals.

3 (k)(r) "Pharmacy benefits manager" means a person, business or
4 other entity that performs pharmacy benefits management. "Pharmacy
5 benefits manager" includes any person or entity acting in a contractual or
6 employment relationship for a pharmacy benefits manager in the
7 performance of pharmacy benefits management for a covered entity.
8 "Pharmacy benefits manager" does not include a covered insurance entity.

9 (l) "Person" means an individual, partnership, corporation,
10 organization or other business entity(s) "Pharmacy record" means any
11 record stored electronically or as a hard copy by a pharmacy relating to
12 the provision of prescription or nonproprietary drugs, pharmacy services
13 or other component of pharmacist care that is included in the practice of
14 pharmacy as defined in K.S.A. 65-1626a, and amendments thereto.

15 (t) "Pharmacy services administration organization" means any
16 entity that contracts with a pharmacy to assist with covered entity
17 interactions and that may provide a variety of other administrative
18 services, including contracting with pharmacy benefits managers on
19 behalf of pharmacies and managing pharmacies' claims payments from
20 covered entities.

21 (u) "Rebate" means any and all payments that accrue to a pharmacy
22 benefits manager or such pharmacy benefits manager's health plan client,
23 directly or indirectly, from a pharmaceutical manufacturer, including, but
24 not limited to, discounts, administration fees, credits, incentives or
25 penalties associated directly or indirectly in any way with claims
26 administered on behalf of a health plan client. "Rebate" does not include
27 any discount or payment that may be provided to or made to any 340B
28 entity through such program.

29 Sec. 11. K.S.A. 2025 Supp. 40-3823 is hereby amended to read as
30 follows: 40-3823. (a) No person shall act or operate as a pharmacy benefits
31 manager without first obtaining a valid license issued by the
32 commissioner.

33 (b) Each person seeking a license to act as a pharmacy benefits
34 manager shall file with the commissioner an application for a license upon
35 a form to be furnished by the commissioner. At a minimum, the
36 application form shall include the following information:

37 (1) The name, address and telephone number of the pharmacy
38 benefits manager;

39 (2) the name, address, official position and professional qualifications
40 of each individual who is responsible for the conduct of the affairs of the
41 pharmacy benefits manager, including all members of the board of
42 directors, board of trustees, executive committee, other governing board or
43 committee, the principal officers in the case of a corporation, the partners

1 or members in the case of a partnership or association;

2 (3) the name and address of the applicant's agent for service of
3 process in the state;

4 (4) the name, address, phone number, email address and official
5 position of the employee who will serve as the primary contact for the
6 department;

7 (5) a copy of the pharmacy benefits manager's corporate charter,
8 articles of incorporation or other charter document;

9 (6)—a *any* template contract including a dispute resolution process,
10 that ultimately involves an independent fact finder between:

11 (A) The pharmacy benefits manager and the health insurer; or

12 (B) the pharmacy benefits manager and the pharmacy or a pharmacy's
13 contracting agent; **and**

14 (7) *an affidavit, executed by an officer or director of the pharmacy
15 benefits manager affirming that any template contract submitted pursuant
16 to this subsection is the accurate and complete contract used; and*

17 (8) a network adequacy report on a form prescribed by the
18 department through rules and regulations.

19 (c) A nonrefundable application fee *in an amount of* not to exceed
20 \$2,500. Not later than December 1 of each year, the commissioner shall set
21 and cause to be published in the Kansas register such fee for the next
22 calendar year.

23 (d) The licensee shall inform the commissioner, by any means
24 acceptable to the commissioner, of any material change in the information
25 required by this subsection within 90 days of such change. Failure to
26 timely inform the commissioner of a material change may result in a
27 penalty against the licensee ~~in the amount of \$500~~ *an amount of not to
28 exceed \$2,000 per occurrence.*

29 (e) Within 90 days after receipt of a completed application, the
30 network adequacy report and the applicable license fee, the commissioner
31 shall review the application and issue a license if the applicant is deemed
32 qualified under this section. If the commissioner determines that the
33 applicant is not qualified, the commissioner shall notify the applicant and
34 shall specify the reason for the denial.

35 (f) (1) All documents, materials or other information and copies
36 thereof in the possession or control of the department or any other
37 governmental entity that are obtained by or disclosed to the commissioner
38 or any other person in the course of an application, examination or
39 investigation made pursuant to this act shall be confidential by law and
40 privileged, shall not be subject to any open records, freedom of
41 information, sunshine or other public record disclosure laws and shall not
42 be subject to subpoena or discovery.

43 (2) The provisions of paragraph (1) shall only apply to the disclosure

1 of the confidential documents described in paragraph (1) by the
2 department or any other governmental entity and shall not be construed to
3 create any privilege in favor of any other party.

4 (3) The provisions of this subsection shall expire on July 1, 2027,
5 unless the legislature reviews and reenacts this provision pursuant to
6 K.S.A. 45-229, and amendments thereto, prior to July 1, 2027.

7 Sec. 12. K.S.A. 2025 Supp. 40-3824 is hereby amended to read as
8 follows: 40-3824. (a) Each pharmacy benefits manager license shall expire
9 on March 31 of each year and may be renewed annually on the request of
10 the licensee. The application for renewal shall be submitted on a form
11 furnished by the commissioner and accompanied by a renewal fee of not to
12 exceed \$2,500. The application for renewal shall be in such form and
13 contain such matters as the commissioner prescribes.

14 (b) (1) *Within 90 days after receipt of a completed renewal
15 application, the commissioner shall review the application and any
16 relevant information received pursuant to the provisions of this act,
17 including quarterly and annual reports. If the commissioner determines
18 the application is incomplete or the pharmacy benefits manager is not in
19 compliance with the act, the commissioner shall notify the applicant and
20 shall specify the reason for the denial of the renewal application.*

21 (2) *If a registered auditing entity fails to provide a completed
22 application for renewal by March 31, or if the license renewal fee is not
23 paid by March 31, then a penalty fee shall be assessed in an amount of not
24 to exceed \$250. The auditing entity shall remit the renewal fee plus the
25 penalty fee before the commissioner issues such auditing entity's
26 registration renewal.*

27 (c) *If a pharmacy benefits manager fails to provide a completed
28 application for renewal by March 31, or if a license renewal fee is not paid
29 by the prescribed date March 31, then the amount of the fee, plus a penalty
30 fee shall be assessed in an amount of not to exceed \$2,500 shall be paid.
31 The pharmacy benefits manager's license may be revoked or suspended by
32 the commissioner until the renewal fee and any penalty assessed has been
33 paid.*

34 (e) ~~Any person who performs or is performing any pharmacy benefits
35 management service shall be required to obtain a license as a pharmacy
36 benefits manager from the commissioner not later than January 1, 2023, in
37 order to continue to do business in Kansas. The pharmacy benefits
38 manager shall remit the renewal fee plus the penalty fee before the
39 commissioner issues such pharmacy benefits manager's license renewal.~~

40 (d) *The pharmacy benefits manager's license may be revoked or
41 suspended by the commissioner until the renewal fee and any penalty
42 assessed has been paid.*

43 (d)(e) Not later than December 1 of each year, the commissioner shall

1 set and cause to be published in the Kansas register the fees required
2 pursuant to this section for the next calendar year.

3 Sec. 13. K.S.A. 2025 Supp. 40-3825 is hereby amended to read as
4 follows: 40-3825. (a) In accordance with the provisions of the rules and
5 regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the
6 commissioner may adopt, amend and revoke rules and regulations
7 governing the administration and enforcement of this act, limited to:

8 (1) the content of the application form;

9 (2) the content of any other form or report required to implement
10 this act; and

11 (3) such other rules and regulations as the commissioner may deem
12 necessary to carry out the provisions of this act.

13 (b) ~~The commissioner shall adopt, amend and revoke all such
14 necessary rules and regulations not later than July 1, 2023.~~

15 Sec. 14. K.S.A. 2025 Supp. 40-3826 is hereby amended to read as
16 follows: 40-3826. (a) If the commissioner has reason to believe that a
17 pharmacy benefits manager has been engaged in this state or is engaging
18 in this state in activity that violates the ~~pharmacy benefits manager~~
19 ~~ensure Kansas consumer prescription protection and accountability~~ act,
20 the commissioner shall issue and serve upon such pharmacy benefits
21 manager a statement of the charges of any such violation and conduct a
22 hearing thereon in accordance with the provisions of the Kansas
23 administrative procedure act.

24 (b) If, after such a hearing, the commissioner determines that the
25 pharmacy benefits manager charged has violated the act, the commissioner
26 may, in the exercise of discretion, order any one or more of the following:

27 (1) (A) Payment of a monetary penalty *in an amount of not more than*
28 *to exceed* \$1,000 for each and every act or violation. ~~The total of the~~
29 ~~monetary penalties for such violations shall not exceed~~ \$10,000;

30 (B) if the pharmacy benefits manager knew or reasonably should
31 have known that such manager was in violation of this act, payment of a
32 monetary penalty *in an amount of not more than* to exceed \$5,000 for each
33 and every act or violation. ~~The total of the monetary penalties for such~~
34 ~~violations shall not exceed~~ \$50,000 in any six month period;

35 (2) if such manager knew or reasonably should have known such
36 person was in violation of this act, the suspension or revocation of the
37 pharmacy benefits manager's license; or

38 (3) the assessment of any costs incurred as a result of conducting the
39 administrative hearing authorized by the provisions of this section against
40 the pharmacy benefits manager.

41 (c) As used in this section, "costs" includes witness fees, mileage
42 allowances, any costs associated with reproduction of documents that
43 become a part of the hearing record and expenses of making a record of

1 the hearing.

2 (d) (1) If the deadline for filing a petition for review has expired and
3 no such petition has been filed, the commissioner may reopen and modify
4 or set aside any portion or the entirety of any administrative order issued
5 under this section.

6 (2) The reopening of any such order may occur if, in the
7 commissioner's opinion, the conditions of fact or law have changed to
8 warrant such an action or if such an action is warranted in the public
9 interest.

10 (e) *In addition to any other penalty provided by this act*, any person
11 who acts as a pharmacy benefits manager without being licensed as
12 required by this act shall be subject to a fine of ~~\$5,000~~ not to exceed
13 \$100,000 for the period in which the pharmacy benefits manager is found
14 to be in violation.

15 Sec. 15. K.S.A. 2025 Supp. 40-3827 is hereby amended to read as
16 follows: 40-3827. (a) There is hereby established in the state treasury the
17 pharmacy benefits manager licensure fund. Such fund shall be
18 administered by the commissioner for costs related to administering the
19 ~~pharmacy benefits manager licensing~~ *Kansas consumer prescription*
20 *protection and accountability* act. All expenditures from the pharmacy
21 benefits manager licensure fund shall be made in accordance with
22 appropriation acts upon warrants of the director of accounts and reports
23 issued pursuant to vouchers approved by the commissioner or by the
24 commissioner's designee.

25 (b) The commissioner shall remit all moneys received by or for the
26 commissioner under the provisions of this act to the state treasurer in
27 accordance with the provisions of K.S.A. 75-4215, and amendments
28 thereto. Upon receipt of each such remittance, the state treasurer shall
29 deposit the entire amount thereof in the state treasury and such amount
30 shall be credited to the pharmacy benefits manager licensure fund.

31 Sec. 16. K.S.A. 2025 Supp. 40-3828a is hereby amended to read as
32 follows: 40-3828a. (a) A pharmacy benefits manager's license may be
33 revoked, suspended or limited, the licensee may be censured or placed
34 under probationary conditions or an application for a license or for
35 reinstatement of a license may be denied upon a finding that the:

36 (1) Applicant or licensee committed fraud or misrepresentation in
37 applying for or securing an original, renewal or reinstated license;

38 (2) licensee has violated any lawful rule or regulation promulgated by
39 the commissioner or violated any lawful order or directive of the
40 commissioner previously entered by the commissioner;

41 (3) pharmacy benefits manager has engaged in fraudulent activity that
42 constitutes a violation of state or federal law;

43 (4) licensee has failed to furnish any information legally requested by

1 the commissioner to the commissioner or the commissioner's investigators
2 or representatives, *including information requested during an examination*
3 *pursuant to section 4, and amendments thereto;*

4 (5) pharmacy benefits manager has been determined by the
5 commissioner to be in violation of or noncompliance with state or federal
6 law; ~~or~~

7 (6) pharmacy benefits manager has failed to timely submit a renewal
8 application and the information required under K.S.A. 40-3824, and
9 amendments thereto. In lieu of a denial of a renewal application, the
10 commissioner may permit the pharmacy benefits manager to submit to the
11 commissioner a corrective action plan to correct or cure any deficiencies;
12 ~~or~~

13 (7) *pharmacy benefits manager has failed to timely submit the*
14 *reporting required by section 3, and amendments thereto.*

15 (b) This section shall be a part of and supplemental to the ~~pharmacy~~
16 ~~benefits manager licensure~~ Kansas prescription protection and
17 accountability act.

18 Sec. 17. K.S.A. 40-3831 is hereby amended to read as follows: 40-
19 3831. (a) ~~This section shall be known and may be cited as the Kansas~~
20 ~~pharmacy patients fair practices act.~~

21 (b) As used in this section:

22 (1) "Covered person" means the same as defined in K.S.A. 40-3822,
23 and amendments thereto.

24 (2) "Health carrier" means the same as defined in K.S.A. 40-2,195,
25 and amendments thereto.

26 (3) "Pharmacy benefits manager" means the same as defined in
27 K.S.A. 40-3822, and amendments thereto.

28 (e) (1) ~~Co-payments~~ (1) *Copayments* applied by a health carrier for a
29 prescription drug ~~may~~ shall not exceed the total submitted charges by the
30 network pharmacy.

31 (2) A pharmacy or pharmacist shall have the right to provide a
32 covered person with information regarding the amount of the covered
33 person's cost share for a prescription drug. Neither a pharmacy nor a
34 pharmacist shall be proscribed by a pharmacy benefits manager from
35 discussing any such information or for selling a more affordable
36 alternative to the covered person if such an alternative is available.

37 (d) (b) (1) This section applies to any contract between a pharmacy
38 benefits manager and a pharmacy, a pharmacy services administration
39 organization or a group purchasing organization ~~that is entered into or~~
40 ~~renewed on and after January 1, 2019.~~

41 (2) The provisions of this section shall not apply to any policy or
42 certificate that provides coverage for any specified disease, specified
43 accident or accident only coverage, credit, dental, disability income,

1 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
2 2227, and amendments thereto, vision care or any other limited
3 supplemental benefit nor to any medicare supplement policy of insurance
4 as defined by the commissioner of insurance by rule and regulation, any
5 coverage issued as a supplement to liability insurance, workers
6 compensation or similar insurance, automobile medical-payment insurance
7 or any insurance under which benefits are payable with or without regard
8 to fault, whether written on a group, blanket or individual basis.

9 Sec. 18. K.S.A. 40-222, 40-3828, 40-3831, 65-16,121, 65-16,122, 65-
10 16,123, 65-16,124, 65-16,125 and 65-16,126 and K.S.A. 2025 Supp. 40-
11 202, 40-3821, 40-3822, 40-3823, 40-3824, 40-3825, 40-3826, 40-3827,
12 40-3828a, 40-3829 and 40-3830 are hereby repealed.

13 Sec. 19. This act shall take effect and be in force from and after its
14 publication in the statute book.