

March 14, 2022

The Honorable Steven Johnson, Chairperson  
House Committee on Insurance and Pensions  
Statehouse, Room 218-N  
Topeka, Kansas 66612

Dear Representative Johnson:

**SUBJECT:** Fiscal Note for HB 2733 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2733 is respectfully submitted to your committee.

HB 2733 would change what was previously known as the Pharmacy Benefits Manager Registration Act to the Pharmacy Benefits Manager Licensure Act and revise application requirements and include various penalties for violations of rules, regulations, and state and federal laws. The bill would also revise application and penalty fees for any pharmacy benefit manager who is not properly licensed on or after January 1, 2023. The nonrefundable application fee would increase from \$140 to \$2,500. Within 90 days of any material change, the Pharmacy Benefits Manager would be required to inform the Commissioner of Insurance and a failure to report could result in a penalty of \$500. Within 90 days of receipt of the application and associated materials, a review would be completed, and a license issued, or a denial letter would be sent with the reasons for the denial.

All documents submitted to the Commissioner for an application, examination, or investigation pursuant to the Act would be confidential by law and privileged, and would not be subject to any open records, freedom of information, sunshine, or other public record disclosure laws, and would not be subject to subpoena or discovery. This provision would sunset on July 1, 2027, unless the Legislature reviews and reenacts this provision prior to July 1, 2027.

Each license would be renewed annually no later than March 31 with the submission of a renewal application and the payment of a \$2,500 renewal fee. If it is not paid by the required date, the amount of the renewal fee plus a penalty of \$2,500 would be paid. Any person who is acting as a Pharmacy Benefits Manager would be required to obtain a license no later than January 1, 2023, to continue doing business in Kansas. The bill would permit the Commissioner to adopt, amend, and revoke rules and regulations governing the administration of the Act no later than July 1, 2023.

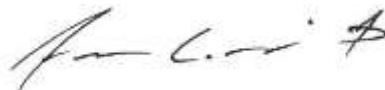
The Commissioner could issue and serve upon any Pharmacy Benefits Manager a statement of the charges of any violations and conduct a hearing in accordance with the provision of the Kansas Administrative Procedures Act. If, after a hearing, it is determined that the Pharmacy Benefits Manager has violated the Act, the Commissioner may order any one or more of the following: monetary penalties, suspension or revocation of the Pharmacy Benefits Manager's license, or the assessment of costs associated with the administrative hearing.

The bill would create the Pharmacy Benefits Manager Licensure Fund. The Commissioner would remit all revenue received under the provisions of this Act to the State Treasurer. A Pharmacy Benefits Manager would be required to comply with various provisions regarding Maximum Allowable Cost (MAC) which includes administrative appeal procedures for a pharmacy or pharmacy's contracting agent to challenge MAC for a specific drug.

Estimated State Fiscal Effect				
	FY 2022 SGF	FY 2022 All Funds	FY 2023 SGF	FY 2023 All Funds
Revenue	--	--	--	\$135,000
Expenditure	--	--	--	\$72,000
FTE Pos.	--	--	--	1.00

The Kansas Insurance Department indicates that HB 2733 could increase the number of complaints regarding administrative appeals of pricing. As a result, the Department would need to add 1.00 FTE Policy Examiner position to the Rate and Form Compliance Division. The cost to the Department from the Pharmacy Benefits Manager Licensure Fund would be \$72,000 (\$67,000 for salary & benefits, \$5,000 for computer & other office equipment). The Department currently has 54 Pharmacy Benefit Managers registered, if the renewal fee increases from \$140 to \$2,500, the revenue collected is estimated to be \$135,000 to be deposited into the Pharmacy Benefits Manager Licensure Fund. Any fiscal effect associated with HB 2733 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Alexandra Blasi, Board of Pharmacy  
Bobbi Mariani, Insurance