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MEMORANDUM

To: Chair Dietrich and the Senate Committee on Financial Institutions and Insurance
From: Office of Revisor of Statutes
Date: January 28, 2026
Subject: Bill Brief - SB 360

Senate Bill 360 creates and enacts the Kansas Consumer Prescription Protection and Accountability Act. The act consists of six new sections of law and incorporates the provisions of the pharmacy benefits manager licensing act, K.S.A. 40-3821 et seq. by updating and redesignating those statutes as part of the new act. The resulting new act requires licensure of pharmacy benefits managers, registration of auditing entities and applies to any pharmacy benefits manager that provides claim processing services, prescription drug or device services to covered individuals who are Kansas residents, as well to any audit of the records of any pharmacy conducted by a managed care company, third-party payer, entity that represents a covered entity or health benefit plan.

The attached grid very briefly describes the provisions of each new section, broken into columns categorizing the "shall," "may," and "shall nots," pertaining to each entity involved in the section. Following the new sections is a brief one-sentence summary of the each of the amendatory sections.

I can stand for any questions at the appropriate time.

Summary of the Kansas Consumer Prescription Protection and Accountability Act

PHARMACY AUDITS (Sec. 1)		SHALL	MAY	SHALL NOT
PHARMACY	Keep information collected during a pharmacy audit confidential. (Sec. 1)		Have access to the pharmacy's previous audit report, but only if the auditing entity conducted the previous audit.	Compensate its employees or contractors conducting the pharmacy audit based solely on the amount claimed or recouped.
	Provide 14 days prior written notice to pharmacy being audited.		Not charge back, recoup or collect penalties from the pharmacy until time to file appeal has passed or the appeals process has ended.	Schedule or initiate a pharmacy audit of a pharmacy averaging 600 prescriptions/wk during the first five days of the month w/o express consent.
	Accept paper or electronic logs as documentation of the delivery of prescription or nonproprietary drugs and pharmacy services.			Use extrapolation to calculate penalties or amounts to be charged back or recouped.
	Provide pharmacy with complete list of records reviewed before leaving pharmacy after on-site audit completed.			Include dispensing fees in the calculation of overpayments unless a prescription is considered a misfill.
	Within 60 days of completing on-site portion of audit: provide pharmacy or corporate parent with preliminary report.			Seek any fine, charge back, recoupment or adjustment for dispensed product unless fraud, or other conditions are present.
	Within 90 days of completing on-site portion of audit: provide pharmacy or corporate parent with final report.			
	Provide copy of the final report to plan sponsor and Commissioner upon request.			
	Have 30 days following receipt of preliminary report to respond.		Use authentic and verifiable statement or records to validate the pharmacy record.	A pharmacy that is the subject of a pharmacy audit may be subject to a charge back or recoupment for a clerical or recordkeeping error unless such error resulted in an overpayment to the pharmacy.
	Conduct audits involving clinical judgement be conducted by or in consultation with a pharmacist.		Use any valid prescription including medication administration records, faxes, electronic prescriptions to validate claims.	Provisions of Sec. 1 shall not apply to a pharmacy audit if fraud, waste, abuse or misconduct is indicated or discovered or criminal activity, fraud or other wrongdoing is present.
			Appeal a final audit report in accordance with procedures established by the auditing entity.	
AUDITING ENTITY REGISTRATION AND RENEWAL (Sec. 2)		SHALL	MAY	SHALL NOT
AUDITING ENTITIES	No person shall act as an auditing entity without first registering with the Commissioner.		Auditing entity registration may be renewed annually on or before March 31 of each year; if renewal is late a late penalty will be assessed.	
	Each person shall file an application with the Commissioner accompanied by a registration fee of not more than \$500.			
	Auditing entity registration shall expire on March 31 of each year.			
COMMISSIONER	Set the amount of registration and renewal fees and publish such fees for the next year by December 1 of the current year.		Suspend an auditing entity's registration until a renewal application has been received and all fees have been paid.	

REPORTING / TRANSPARENCY (Sec. 3)	SHALL	MAY	SHALL NOT
<p>PBMs ANNUAL REPORTS</p>	<p>Report to the Commissioner for each health plan or covered entity for which the PBM provides services the aggregate amount of rebates: * Received by the PBM; * distributed to each health plan or covered entity contracted with the PBM; * passed on to the enrollees of each health plan or covered entity at point-of-sale that reduced the enrollee's deductible, copayment, coinsurance or other cost-sharing amounts;</p>		
	<p>Report to the Commissioner the individual amount paid by the health plan or covered entity to the PBM for pharmacist services itemized by pharmacy, product and goods and services; and the individual amount that a PBM paid for pharmacist services itemized by pharmacy, product and goods and services</p>		
	<p>Report to the Commissioner and each contracted health plan or covered entity the aggregate difference between the amount that the PBM reimbursed pharmacies and the amount the PBM charged each such health plan</p>		
<p>HEALTH BENEFIT PLANS & COVERED ENTITIES ANNUAL REPORTS</p>	<p>Report to the Commissioner the aggregate amount of credits, rebates, discounts or other such payments received from a PBM or drug manufacturer and disclose to the Commissioner the extent to which such rebates, discounts or other such payments were passed on to reduce premium rates.</p>		

REPORTING / TRANSPARENCY (Sec. 3)	SHALL	MAY	SHALL NOT
<p>PBMs - QUARTERLY REPORTS</p>	<p>Report to the commissioner on all drugs appearing on the NADAC list that are reimbursed at 10% and below the NADAC cost and all drugs on the list reimbursed at 10% and above the NADAC cost. For each drug in the report, the PBM shall include: The month the drug was dispensed, the quantity dispensed, the amount the pharmacy was reimbursed; whether the pharmacy was an affiliate of the PBM; whether the drug was dispensed pursuant to a government health plan and the average national drug acquisition cost for the month that the drug was dispensed.</p>		
<p>COMMISSIONER</p>	<p>The PBM shall publish a copy of this report on its publicly available website for at least 24 months and shall be exempt from the confidentiality provisions of this section.</p>		
<p>COMMISSIONER</p>	<p>Consider the information contained in the quarterly reports when reviewing premium rates charged for any individual or group accident and health policy.</p>		
<p>COMMISSIONER</p>	<p>All reports required by this section shall be filed electronically and shall be considered proprietary and confidential (with the exception of the report noted as being exempt from the confidentiality provisions) and shall not be subject to disclosure under the Kansas Open Records Act.</p>		
<p>PBM EXAMINATIONS (Sec. 4)</p>	<p>SHALL</p>	<p>MAY</p>	<p>SHALL NOT</p>
<p>COMMISSIONER</p>	<p>Examinations of PBMs shall follow the requirements of K.S.A. 40-222. See corresponding amendments in Sec. 8</p>	<p>May examine a PBM for compliance with the provisions of the act.</p>	
<p>COMMISSIONER</p>		<p>The Commissioner may assess the costs of the examination to the PBM.</p>	<p>The Commissioner shall not subject a PBM to the provisions of K.S.A. 40-222 relating to the frequency of financial examinations. (See corresponding amendments in Sec. 8)</p>
<p>COMMISSIONER</p>	<p>Information and data obtained during an examination shall be considered confidential by law and exempt from disclosure and not be subject to the Kansas Open Records Act.</p>	<p>The Commissioner may examine a PBM whenever the Commissioner believes it is reasonably necessary to ensure compliance with the act.</p>	

PBM - PRICING AND REIMBURSEMENT (Sec. 5)	SHALL	MAY	SHALL NOT
	Charge a health benefit plan the same price for a prescription drug as the PBM pays a pharmacy for the prescription drug.		Collect from a pharmacy, pharmacist or pharmacy technician any cost share charged to a covered person that exceeds the total submitted charges by the pharmacy or pharmacist to the PBM.
PBM	File with the Commissioner any methodology in connection with reimbursement at the time of the PBM's initial licensure and any time thereafter that any methodology is changed. Methodologies are confidential and exempt disclosure under the Kansas Open Records Act.		Reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service any amount less than the amount that the PBM would reimburse itself or an affiliate for the same prescription drug or pharmacy service.
	Calculate a covered individual's defined cost sharing for each prescription drug based on a price that is reduced by an amount equal to 100% of all rebates received or to be received in connection with the dispensing or administration of the prescription drug.		Not engage in any practice that includes imposing a point-of-sale or retroactive fee or derives any revenue from a pharmacy or covered person in connection with performing pharmacy benefits management services.
	Pass on to the health benefit plan any rebate amount that is greater than the defined cost-sharing to reduce premiums.		
SEVERABILITY CLAUSE (SEC. 6)	If any provision of this act or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this act that can be given effect without the invalid provision or application.		

AMENDATORY SECTIONS	
Sec. 7 K.S.A. 40-202	Makes entities previously exempt from the insurance code subject to the provisions of the act.
Sec. 8 K.S.A. 40-222	Corresponding amendments to the K.S.A. 40-222 that were described in Sec. 6
Sec. 9 K.S.A. 40-3821	Incorporates the old Pharmacy Benefits Manager License Act into the Kansas Consumer Prescription Protection and Accountability Act
Sec. 10 K.S.A. 40-3822	Provides definitions for the act, incorporating definitions from Pharmacy Benefits Manager License Act and adds new.
Sec. 11 K.S.A. 40-3823	Requires licensure of pharmacy benefits managers. Adds a new requirement of an affidavit affirming that any template contract submitted as part of the application for licensure is accurate and complete
Sec. 12 K.S.A. 40-3824	Adds renewal information for PBM licenses and auditing entity registrations
Sec. 13 K.S.A. 40-3825	Grants the Commissioner authority to adopt rules and regulations.
Sec. 14 K.S.A. 40-3826	Grants the Commissioner authority issue and serve a statement of charges upon a PBM that the Commissioner believes is in violation of the act, and conduct a hearing in accordance with the Kansas administrative procedure act.
Sec. 15 K.S.A. 40-3827	Updates the name of the act contained in the statute.
Sec. 16 K.S.A. 40-3828a	Provides for revocation, suspension or limitation of a pharmacy benefits manager's license.
Sec. 17 K.S.A. 40-3831	No gag clause provision.

