

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
35 within 60 calendar days after completion of the on-site portion of the
36 pharmacy audit;

Proposed Amendment to SB 360
By Senator Gossage
For the Senate Committee on Financial
Institutions and Insurance
Prepared by Eileen Ma
Office of Revisor of Statutes
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1 examination procedures and requirements provided in K.S.A. 40-222, and
2 amendments thereto. The commissioner may assess the costs of the
3 examination to the pharmacy benefits manager.

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

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

10 (d) The information and data obtained by the commissioner from a
11 pharmacy benefits manager under this section shall be considered
12 confidential by law and exempt from disclosure in accordance with K.S.A.
13 40-222, and amendments thereto, and shall not be subject to disclosure
14 under the Kansas open records act, K.S.A. 45-215 et seq., and amendments
15 thereto.

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

18 New Sec. 5. (a) A pharmacy, pharmacist or pharmacy technician any

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

22 (2) (A) Reimburse a pharmacy, pharmacist or pharmacy technician for
23 a prescription drug or pharmacy service any amount that is less than the
24 national average drug acquisition cost for the prescription drug or
25 pharmacy service at the time that the drug is administered or dispensed,
26 plus a professional dispensing fee that is the greater of \$10.50 or the
27 dispensing fee calculated pursuant to K.A.R. 30-5-94; or

28 (B) if the national average drug acquisition cost is not available at the
29 time that a drug is administered or dispensed, a pharmacy benefits
30 manager shall not reimburse a pharmacy, pharmacist or pharmacy
31 technician an amount that is less than the wholesale acquisition cost of the
32 drug as defined in 42 U.S.C. § 1395w-3a(c)(6)(B) plus a professional
33 dispensing fee that is the greater of \$10.50 or the dispensing fee calculated
34 pursuant to K.A.R. 30-5-94;

35 (3) Reimburse a pharmacy or pharmacist for a prescription drug or
36 pharmacy service any amount less than the amount that the pharmacy
37 benefits manager would reimburse itself or an affiliate for the same
38 prescription drug or pharmacy service; and

39 (4) not engage in any practice that:

40 (A) Includes imposing a point-of-sale fee or retroactive fee; or

41 (B) derives any revenue from a pharmacy or covered person in
42 connection with performing pharmacy benefits management services. The
43 provisions of this section shall not be construed to prohibit pharmacy