

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;

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

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

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

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

17 (7) upon request of the plan sponsor, provide a copy of the final
18 report to the plan sponsor, including the disclosure of any money recouped
19 in the audit. The auditing entity shall provide a copy of the report to the
20 commissioner upon request. Reports provided to the commissioner shall
21 be confidential by law, shall not be subject to subpoena and may not be
22 made public by the commissioner or any other person, except to the extent
23 otherwise specifically provided in the Kansas open records act, K.S.A. 45-
24 215 et seq., and amendments thereto.

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

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

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

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

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

38 (2) during the first five days of any month, initiate or schedule a
39 pharmacy audit for any pharmacy averaging more than 600 prescriptions
40 filled per week without the express consent of the pharmacy;

41 (3) use extrapolation to calculate penalties or amounts to be charged
42 back or recouped unless otherwise required by federal law;

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

1 a prescription is considered a misfill; and

2 (5) (A) seek any fine, charge back, recoupment or other adjustment
3 for a dispensed product or any portion of a dispensed product unless one or
4 more of the following has occurred:

5 (i) Fraud or other intentional and willful misrepresentation has been
6 committed by the pharmacy, as evidenced by a review of the claims data,
7 statements, physical review or other investigative method;

8 (ii) the pharmacy has dispensed a product in excess of the benefit
9 design as established by the plan sponsor;

10 (iii) the pharmacy has not filled prescriptions in accordance with the
11 prescriber's order; or

12 (iv) an actual underpayment or overpayment has been made to the
13 pharmacy; and

14 (B) any fee, charge back, recoupment or other adjustment shall be
15 limited to the actual financial harm associated with the dispensed product
16 or portion of the dispensed product or the actual underpayment or
17 overpayment, pursuant to subparagraph (A).

18 (d) A pharmacy audit that involves clinical judgment shall be
19 conducted by or in consultation with a pharmacist. Such pharmacy audit
20 shall not cover:

21 (1) A period of more than 24 months after the date that a claim was
22 submitted by the pharmacy to the pharmacy benefits manager or covered
23 entity unless a longer period is required by law; or

24 (2) more than 250 prescriptions. A refill does not constitute a separate
25 prescription for the purposes of this paragraph.

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

27 (1) Authentic and verifiable statements or records, including, but not
28 limited to, medication administration records of a nursing home, assisted
29 living facility, hospital or healthcare provider with prescriptive authority to
30 validate the pharmacy record and delivery; or

31 (2) any valid prescription, including, but not limited to, medication
32 administration records, facsimiles, electronic prescriptions, electronically
33 stored images of prescriptions, electronically created annotations or
34 documentation of telephone calls from the prescribing healthcare provider
35 or practitioner's agent to validate claims in connection with prescriptions
36 or changes in prescriptions or refills of prescription or nonproprietary
37 drugs. Documentation of an oral prescription order that has been verified
38 by the prescribing healthcare provider shall be deemed to meet the
39 provisions of this subsection for the initial audit review.

40 (f) A pharmacy that is the subject of a pharmacy audit may not be
41 subject to a charge back or recoupment for a clerical or recordkeeping
42 error in a required document or record, including a typographical or
43 computer error, unless the error resulted in overpayment to the pharmacy.

1 Such pharmacy may appeal a final audit report in accordance with
2 procedures established by the entity conducting the pharmacy audit.

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

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

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

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

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

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

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

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

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

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

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

33 (3) federal employer identification number for the applicant, if
34 applicable.

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

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

40 (e) Each auditing entity registration shall expire on March 31 of each
41 year and may be renewed annually at the request of the pharmacy auditing
42 entity on or before March 31 of each year. The application for renewal
43 shall be submitted by the auditing entity on a form prescribed by the

1 commissioner and accompanied by a renewal fee in an amount of not to
2 exceed \$250.

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

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

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

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

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

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

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

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

25 (C) amount of rebates passed on to the enrollees of each health plan
26 or covered entity at the point-of-sale that reduced such enrollees'
27 applicable deductibles, copayments, coinsurance or other cost-sharing
28 amounts;

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

32 (E) and individual amount that a pharmacy benefits manager paid for
33 pharmacist services itemized by pharmacy, product and goods and
34 services;

35 (2) annually, report to the commissioner and each contracted health
36 plan or covered entity the aggregate difference between the amount that
37 the pharmacy benefits manager reimbursed pharmacies and the amount
38 that the pharmacy benefits manager charged such health plan; and

39 (3) (A) quarterly, report to the commissioner on all drugs appearing
40 on the national average drug acquisition cost list that are reimbursed at
41 10% and below the national average drug acquisition cost and all drugs
42 that are reimbursed at 10% and above the national average drug
43 acquisition cost.

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

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

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

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

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

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

22 (B) disclose to the commissioner the extent to which such credits,
23 rebates, discounts or other such payments were passed on to reduce
24 insurance premiums or rates.

25 (2) The commissioner shall consider the information in such report
26 when reviewing any premium rates charged for any individual or group
27 accident and health insurance policy as provided in K.S.A. 40-2215 and
28 40-3209, and amendments thereto.

29 (c) The reports required by this section shall be filed electronically on
30 a form and in a manner prescribed by the commissioner.

31 (d) With the exception of the report described in subsection (a)(3), all
32 data and information provided by the pharmacy benefits manager, health
33 plan or covered entity, pursuant to the reporting requirements established
34 by this section, shall:

35 (1) Be considered proprietary and confidential; and

36 (2) not be subject to disclosure under the Kansas open records act,
37 K.S.A. 45-215 et seq., and amendments thereto.

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

40 New Sec. 4. (a) The commissioner may examine the affairs of a
41 pharmacy benefits manager for compliance with the requirements of this
42 act.

43 (b) Every examination conducted under this section shall follow the

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 benefits manager shall not:

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 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

1 benefits managers from processing deductibles or copayments approved
2 by a covered person's health benefit plan.

3 (b) A pharmacy benefits manager shall:

4 (1) Charge a health benefit plan the same price for a prescription drug
5 as such pharmacy benefits manager pays a pharmacy for the prescription
6 drug; and

7 (2) for purposes of complying with the provisions of subsection (a)
8 (2), utilize the most recently published monthly national average drug
9 acquisition cost as a point of reference for the ingredient drug product
10 component of a pharmacy's reimbursement for drugs appearing on the
11 national average drug acquisition cost list.

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

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

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

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

28 (2) Any rebate greater than the defined cost sharing shall be passed
29 on to the health plan to reduce premiums. Nothing in this act shall be
30 deemed to preclude an insurer from decreasing a covered person's defined
31 cost sharing by an amount greater than what is previously stated.

32 (e) The commissioner may order reimbursement to an insured,
33 pharmacy or dispenser who has incurred a monetary loss as a result of a
34 violation of this act.

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

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

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

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

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

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

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

15 (d) the Swedish mutual aid association of Rapp, Osage county,
16 Kansas;

17 (e) the Scandia mutual protective insurance company of Chanute,
18 Kansas;

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

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

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

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

26 (j) a voluntary noncontractual mutual aid arrangement whereby the
27 needs of participants are announced and accommodated through
28 subscriptions to a monthly publication;

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

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

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

37 (a) Whenever the commissioner of insurance deems it necessary but at
38 least once every five years, the commissioner may make, or direct to be
39 made, a financial examination of any insurance company in the process of
40 organization, or applying for admission or doing business in this state. In
41 addition, at the commissioner's discretion the commissioner may make, or
42 direct to be made, a market regulation examination of any insurance
43 company doing business in this state.

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

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

14 ~~(e)(d)~~ For the purpose of such ~~examination~~ examinations, the
15 commissioner of insurance or the persons appointed by the commissioner,
16 ~~for the purpose of making such examination~~ shall have ~~free unrestricted~~
17 access to the books and papers of any such *insurance company or*
18 *pharmacy benefits manager that relate* ~~relates to its~~ such *insurance*
19 *company's or pharmacy benefits manager's* business and to the books and
20 papers kept by any of its agents and may examine under oath, which the
21 commissioner or the persons appointed by the commissioner are
22 empowered to administer, the directors, officers, agents or employees of
23 any such *insurance company or pharmacy benefits manager* in relation to
24 ~~its~~ such *insurance company's or pharmacy benefits manager's* affairs,
25 transactions and condition.

26 ~~(d)(e)~~ The commissioner may also examine or investigate any person,
27 or the business of any person, in so far as such examination or
28 investigation is, in the sole discretion of the commissioner, necessary or
29 material to the examination of the *insurance company or pharmacy*
30 *benefits manager*, but such examination or investigation shall not infringe
31 upon or extend to any communications or information accorded privileged
32 or confidential status under any other laws of this state.

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

39 (1) *At the time of the examination*, the insurance department
40 conducting the examination was ~~at the time of the examination~~ accredited
41 under the national association of insurance commissioners' financial
42 regulation standards and accreditation program; or

43 (2) the examination ~~is~~ was performed under the supervision of an

1 accredited insurance department, or with the participation of one or more
2 examiners who are employed by such an accredited insurance department
3 and who, after a review of the examination work papers and report, state
4 under oath that the examination was performed in a manner consistent
5 with the standards and procedures required by ~~their~~ *such insurance*
6 *company's* insurance department.

7 ~~(f)~~(g) Upon determining that an examination should be conducted, the
8 commissioner or the commissioner's designee shall appoint one or more
9 examiners to perform the examination and instruct ~~them~~ *such examiner* as
10 to the scope of the examination. In conducting an examination of financial
11 condition, the examiner shall observe those guidelines and procedures set
12 forth in the *version of the examiners' handbook adopted promulgated* by
13 the national association of insurance commissioners *in effect at the time of*
14 *such examination as announced by the commissioner pursuant to K.S.A.*
15 *40-2,256, and amendments thereto.* The commissioner may also employ
16 such other guidelines or procedures as the commissioner may deem
17 appropriate.

18 ~~(g)~~(h) The refusal of any *insurance company or pharmacy benefits*
19 *manager*, by its officers, directors, employees or agents, to submit to
20 examination or to comply with any reasonable written request of the
21 examiners shall be grounds for suspension or refusal of, or nonrenewal of
22 any license or authority held by the company to engage in an insurance or
23 other business subject to the commissioner's jurisdiction. Any such
24 proceedings for suspension, revocation or refusal of any license or
25 authority shall be conducted in accordance with the provisions of the
26 Kansas administrative procedure act.

27 ~~(h)~~(i) When making an examination under this act, the commissioner
28 may retain attorneys, appraisers, independent actuaries, independent
29 certified public accountants or other professionals and specialists as
30 examiners, the reasonable cost of which shall be borne by the *insurance*
31 *company* ~~which~~ *or pharmacy benefits manager that* is the subject of the
32 examination.

33 ~~(i)~~(j) Nothing contained in this act shall be construed to limit the
34 commissioner's authority to:

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

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

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

43 (k) (1) No later than 30 days following completion of the examination

1 or at such earlier time as the commissioner shall prescribe, the examiner in
2 charge shall file with the department a verified written report of
3 examination under oath. No later than 30 days following receipt of the
4 verified report, the department shall transmit the report to the *insurance*
5 *company or pharmacy benefits manager* examined, together with a notice
6 which shall afford such *insurance company or pharmacy benefits*
7 *manager* examined a reasonable opportunity of not more than 30 days to
8 make a written submission or rebuttal with respect to any matters
9 contained in the examination report.

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

14 (A) Adopting the examination report as filed or with modification or
15 corrections. If the examination report reveals that the *insurance company*
16 *or pharmacy benefits manager* is operating in violation of any law,
17 regulation or prior order of the commissioner, the commissioner may order
18 the *insurance company or pharmacy benefits manager* to take any action
19 the commissioner considers necessary and appropriate to cure such
20 violations; or

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

24 (C) call and conduct a fact-finding hearing in accordance with K.S.A.
25 40-281, and amendments thereto, for purposes of obtaining additional
26 documentation, data, information and testimony.

27 (3) All orders entered as a result of revelations contained in the
28 examination report shall be accompanied by findings and conclusions
29 resulting from the commissioner's consideration and review of the
30 examination report, relevant examiner workpapers and any written
31 submissions or rebuttals. Within 30 days of the issuance of the adopted
32 report, the *insurance company or pharmacy benefits manager* shall file
33 affidavits executed by each of its directors stating under oath that they
34 have received a copy of the adopted report and related orders.

35 (4) Upon the adoption of the examination report, the commissioner
36 shall hold the content of the examination report as private and confidential
37 information for a period of 30 days except to the extent provided in
38 paragraph (5). Thereafter, the commissioner may open the report for public
39 inspection so long as no court of competent jurisdiction has stayed its
40 publication.

41 (5) (A) Except as provided in paragraph (B), nothing contained in this
42 act shall prevent or be construed as prohibiting the commissioner from
43 disclosing the content of an examination report, preliminary examination

1 report or results, or any matter relating thereto, at any time to:

2 (i) The insurance department of this or any other state or country;

3 (ii) law enforcement officials of this or any other state or agency of
4 the federal government or any other country; or

5 (iii) officials of any agency of another country.

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

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

13 (7) All working papers, recorded information, documents and copies
14 thereof produced by, obtained by or disclosed to the commissioner or any
15 other person in the course of an examination made under this act including
16 analysis by the commissioner pertaining to either the financial condition or
17 the market regulation of ~~a~~ *an insurance company or pharmacy benefits*
18 *manager* must be given confidential treatment and are not subject to
19 subpoena and may not be made public by the commissioner or any other
20 person, except to the extent otherwise specifically provided in K.S.A. 45-
21 215 et seq., and amendments thereto. Access may also be granted to the
22 national association of insurance commissioners and its affiliates. Such
23 parties must agree in writing prior to receiving the information to provide
24 to it the same confidential treatment as required by this section, unless the
25 prior written consent of the *insurance company or pharmacy benefits*
26 *manager* to which it pertains has been obtained.

27 (8) Whenever it appears to the commissioner of insurance from such
28 examination or other satisfactory evidence that the solvency of any such
29 insurance company is impaired, or that it is doing business in violation of
30 any of the laws of this state, or that its affairs are in an unsound condition
31 so as to endanger its policyholders, the commissioner of insurance shall
32 give the company a notice and an opportunity for a hearing in accordance
33 with the provisions of the Kansas administrative procedure act. If the
34 hearing confirms the report of the examination, the commissioner shall
35 suspend the certificate of authority of such company until its solvency
36 shall have been fully restored and the laws of the state fully complied with.
37 The commissioner may, if there is an unreasonable delay in restoring the
38 solvency of such company and in complying with the law, revoke the
39 certificate of authority of such company to do business in this state. Upon
40 revoking any such certificate the commissioner shall commence an action
41 to dissolve such company or to enjoin the same from doing or transacting
42 business in this state.

43 Sec. 9. K.S.A. 2025 Supp. 40-3821 is hereby amended to read as

1 follows: 40-3821. (a) K.S.A. 40-3821 through 40-3828, and amendments
2 thereto, and K.S.A. 2025 Supp. 40-3828a *et seq.*, and amendments thereto,
3 shall be known and may be cited as the ~~pharmacy benefits manager~~
4 ~~licensure~~ *Kansas consumer prescription protection and accountability act*.

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

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

11 (d) ~~This act shall not apply to any pharmacy benefits manager that~~
12 ~~holds a certificate of registration as an administrator pursuant to K.S.A.~~
13 ~~40-3810, and amendments thereto~~ *This act shall also apply to any audit of*
14 *the records of a pharmacy conducted by a managed care company, third-*
15 *party payer, pharmacy benefits manager or any entity that represents a*
16 *covered entity or health benefit plan and the registration of auditing*
17 *entities.*

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

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

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

25 (b) "Affiliate" means a pharmacy, pharmacist or pharmacy
26 technician which, either directly or indirectly through one or more
27 intermediaries:

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

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

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

34 (c) "Auditing entity" means a person that performs a pharmacy audit,
35 including a pharmacy benefits manager, managed care organization or
36 third-party payer.

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

39 ~~(e)(e)~~ (1) "Covered entity" means:

40 ~~(A) A nonprofit hospital or medical service corporation, health-~~
41 ~~insurer, health benefit plan or health maintenance organization;~~

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

1 ~~(C) an employer, labor union or other group of persons organized in~~
2 ~~the state that provides health coverage to covered individuals who are~~
3 ~~employed or reside in the state a health insurance company, health~~
4 ~~maintenance organization, hospital, medical or dental corporation,~~
5 ~~healthcare corporation, any entity that provides, administers or manages~~
6 ~~a self-funded health benefit plan including a governmental plan or any~~
7 ~~other entity that provides prescription drug coverages unless specifically~~
8 ~~excluded in paragraph (2).~~

9 (2) "Covered entity" does not include any:

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

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

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

18 ~~(d)(f)~~ "Covered person" means a member, policyholder, subscriber,
19 enrollee, beneficiary, dependent or other individual participating in a
20 health benefit plan.

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

24 ~~(e)(h)~~ "Department" means the ~~insurance department~~ Kansas
25 department of insurance.

26 ~~(f)(i)~~ "ERISA" means the federal employee retirement income
27 security act of 1974.

28 ~~(g)(j)~~ "Health benefit plan" means the same as defined in K.S.A. 40-
29 4602, and amendments thereto.

30 ~~(h)(k)~~ "Health insurer" means the same as defined in K.S.A. 40-4602,
31 and amendments thereto.

32 ~~(i) "Maximum allowable cost" or "MAC" means any term or~~
33 ~~methodology that a pharmacy benefits manager or a healthcare insurer~~
34 ~~may use to establish the maximum amount that a pharmacy benefits~~
35 ~~manager will reimburse a pharmacy or a pharmacist for generic~~
36 ~~drugs.~~

36 (l) "Misfill" means a prescription:

37 (1) That was not dispensed;

38 (2) error;

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

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

42 (m) "National average drug acquisition cost" means the monthly
43 survey of retail pharmacies conducted by the federal centers for medicare

1 *and medicaid services to determine the average acquisition cost for*
2 *medicaid-covered outpatient drugs.*

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

6 *(o) "Person" means an individual, partnership, corporation,*
7 *organization or other business entity.*

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

11 ~~(j)~~(q) *"Pharmacy benefits management" means:*

12 *(1) Any of the following services provided with regard to the*
13 *administration of the following pharmacy benefits:*

14 *(A) Mail service pharmacy;*

15 *(B) claims processing, retail network management and payment of*
16 *claims to pharmacies for prescription drugs dispensed to covered*
17 *individuals;*

18 *(C) clinical formulary development and management services;*

19 *(D) rebate contracting and administration;*

20 *(E) certain patient compliance, therapeutic intervention and generic*
21 *substitution programs; or*

22 *(F) disease management programs involving prescription drug*
23 *utilization; and*

24 *(2) (A) the procurement of prescription drugs by a prescription*
25 *benefits manager at a negotiated rate for dispensation to covered*
26 *individuals within this state; or*

27 *(B) the administration or management of prescription drug benefits*
28 *provided by a covered insurance entity for the benefit of covered*
29 *individuals.*

30 ~~(k)~~(r) *"Pharmacy benefits manager" means a person, business or*
31 *other entity that performs pharmacy benefits management. "Pharmacy*
32 *benefits manager" includes any person or entity acting in a contractual or*
33 *employment relationship for a pharmacy benefits manager in the*
34 *performance of pharmacy benefits management for a covered entity.*
35 *"Pharmacy benefits manager" does not include a covered insurance entity.*

36 ~~(l) "Person" means an individual, partnership, corporation,~~
37 ~~organization or other business entity.~~(s) *"Pharmacy record" means any*

38 *record stored electronically or as a hard copy by a pharmacy relating to*
39 *the provision of prescription or nonproprietary drugs, pharmacy services*
40 *or other component of pharmacist care that is included in the practice of*
41 *pharmacy as defined in K.S.A. 65-1626a, and amendments thereto.*

42 *(t) "Pharmacy services administration organization" means any*
43 *entity that contracts with a pharmacy to assist with covered entity*

1 *interactions and that may provide a variety of other administrative*
2 *services, including contracting with pharmacy benefits managers on*
3 *behalf of pharmacies and managing pharmacies' claims payments from*
4 *covered entities.*

5 *(u) "Rebate" means any and all payments that accrue to a pharmacy*
6 *benefits manager or such pharmacy benefits manager's health plan client,*
7 *directly or indirectly, from a pharmaceutical manufacturer, including, but*
8 *not limited to, discounts, administration fees, credits, incentives or*
9 *penalties associated directly or indirectly in any way with claims*
10 *administered on behalf of a health plan client. "Rebate" does not include*
11 *any discount or payment that may be provided to or made to any 340B*
12 *entity through such program.*

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

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

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

23 (2) the name, address, official position and professional qualifications
24 of each individual who is responsible for the conduct of the affairs of the
25 pharmacy benefits manager, including all members of the board of
26 directors, board of trustees, executive committee, other governing board or
27 committee, the principal officers in the case of a corporation, the partners
28 or members in the case of a partnership or association;

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

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

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

36 (6)—~~a~~ any template contract including a dispute resolution process,
37 that ultimately involves an independent fact finder between:

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

39 (B) the pharmacy benefits manager and the pharmacy or a pharmacy's
40 contracting agent;~~and~~

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

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

3 (c) A nonrefundable application fee *in an amount of* not to exceed
4 \$2,500. Not later than December 1 of each year, the commissioner shall set
5 and cause to be published in the Kansas register such fee for the next
6 calendar year.

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

13 (e) Within 90 days after receipt of a completed application, the
14 network adequacy report and the applicable license fee, the commissioner
15 shall review the application and issue a license if the applicant is deemed
16 qualified under this section. If the commissioner determines that the
17 applicant is not qualified, the commissioner shall notify the applicant and
18 shall specify the reason for the denial.

19 (f) (1) All documents, materials or other information and copies
20 thereof in the possession or control of the department or any other
21 governmental entity that are obtained by or disclosed to the commissioner
22 or any other person in the course of an application, examination or
23 investigation made pursuant to this act shall be confidential by law and
24 privileged, shall not be subject to any open records, freedom of
25 information, sunshine or other public record disclosure laws and shall not
26 be subject to subpoena or discovery.

27 (2) The provisions of paragraph (1) shall only apply to the disclosure
28 of the confidential documents described in paragraph (1) by the
29 department or any other governmental entity and shall not be construed to
30 create any privilege in favor of any other party.

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

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

41 (b) (1) *Within 90 days after receipt of a completed renewal*
42 *application, the commissioner shall review the application and any*
43 *relevant information received pursuant to the provisions of this act,*

1 *including quarterly and annual reports. If the commissioner determines*
2 *the application is incomplete or the pharmacy benefits manager is not in*
3 *compliance with the act, the commissioner shall notify the applicant and*
4 *shall specify the reason for the denial of the renewal application.*

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

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

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

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

27 ~~*(d)(e)*~~ *Not later than December 1 of each year, the commissioner shall*
28 *set and cause to be published in the Kansas register the fees required*
29 *pursuant to this section for the next calendar year.*

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

35 ~~*(1)(a)*~~ *The content of the application form;*

36 ~~*(2)(b)*~~ *the content of any other form or report required to implement*
37 *this act; and*

38 ~~*(3)(c)*~~ *such other rules and regulations as the commissioner may deem*
39 *necessary to carry out the provisions of this act.*

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

42 Sec. 14. K.S.A. 2025 Supp. 40-3826 is hereby amended to read as
43 follows: 40-3826. (a) If the commissioner has reason to believe that a

1 pharmacy benefits manager has been engaged in this state or is engaging
2 in this state in activity that violates the ~~pharmacy benefits manager~~
3 ~~license~~ *Kansas consumer prescription protection and accountability act*,
4 the commissioner shall issue and serve upon such pharmacy benefits
5 manager a statement of the charges of any such violation and conduct a
6 hearing thereon in accordance with the provisions of the Kansas
7 administrative procedure act.

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

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

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

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

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

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

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

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

37 (e) *In addition to any other penalty provided by this act*, any person
38 who acts as a pharmacy benefits manager without being licensed as
39 required by this act shall be subject to a fine of ~~\$5,000~~ *not to exceed*
40 *\$100,000* for the period in which the pharmacy benefits manager is found
41 to be in violation.

42 Sec. 15. K.S.A. 2025 Supp. 40-3827 is hereby amended to read as
43 follows: 40-3827. (a) There is hereby established in the state treasury the

1 pharmacy benefits manager licensure fund. Such fund shall be
2 administered by the commissioner for costs related to administering the
3 ~~pharmacy benefits manager licensing~~ *Kansas consumer prescription*
4 *protection and accountability* act. All expenditures from the pharmacy
5 benefits manager licensure fund shall be made in accordance with
6 appropriation acts upon warrants of the director of accounts and reports
7 issued pursuant to vouchers approved by the commissioner or by the
8 commissioner's designee.

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

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

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

22 (2) licensee has violated any lawful rule or regulation promulgated by
23 the commissioner or violated any lawful order or directive of the
24 commissioner previously entered by the commissioner;

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

27 (4) licensee has failed to furnish any information legally requested by
28 the commissioner to the commissioner or the commissioner's investigators
29 or representatives, *including information requested during an examination*
30 *pursuant to section 4, and amendments thereto*;

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

34 (6) pharmacy benefits manager has failed to timely submit a renewal
35 application and the information required under K.S.A. 40-3824, and
36 amendments thereto. In lieu of a denial of a renewal application, the
37 commissioner may permit the pharmacy benefits manager to submit to the
38 commissioner a corrective action plan to correct or cure any deficiencies;
39 *or*

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

42 (b) This section shall be a part of and supplemental to the ~~pharmacy~~
43 ~~benefits manager licensure~~ *Kansas prescription protection and*

1 *accountability act.*

2 Sec. 17. K.S.A. 40-3831 is hereby amended to read as follows: 40-
3 3831. (a) ~~This section shall be known and may be cited as the Kansas~~
4 ~~pharmacy patients fair practices act.~~

5 (b) ~~As used in this section:~~

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

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

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

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

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

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

25 (2) The provisions of this section shall not apply to any policy or
26 certificate that provides coverage for any specified disease, specified
27 accident or accident only coverage, credit, dental, disability income,
28 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
29 2227, and amendments thereto, vision care or any other limited
30 supplemental benefit nor to any medicare supplement policy of insurance
31 as defined by the commissioner ~~of insurance~~ by rule and regulation, any
32 coverage issued as a supplement to liability insurance, workers
33 compensation or similar insurance, automobile medical-payment insurance
34 or any insurance under which benefits are payable with or without regard
35 to fault, whether written on a group, blanket or individual basis.

36 Sec. 18. K.S.A. 40-222, 40-3828, 40-3831, 65-16,121, 65-16,122, 65-
37 16,123, 65-16,124, 65-16,125 and 65-16,126 and K.S.A. 2025 Supp. 40-
38 202, 40-3821, 40-3822, 40-3823, 40-3824, 40-3825, 40-3826, 40-3827,
39 40-3828a, 40-3829 and 40-3830 are hereby repealed.

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