

SECOND REGULAR SESSION

# HOUSE BILL NO. 1973

100TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE MORRIS (140).

4498H.011

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to the regulation of pharmacy benefit managers.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.2090, to read as follows:

**376.2090. 1. For the purposes of this section, the following terms mean:**

- (1) "Claims processing services", the administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include, but are not limited to:**
- (a) Receiving payments for pharmacist services;**
  - (b) Making payments to pharmacists or pharmacies for pharmacist services; or**
  - (c) Both paragraphs (a) and (b) of subdivision (1) of subsection 1 of this section;**
- (2) "Department", the department of commerce and insurance;**
- (3) "Health benefit plan", a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services; except that, "health benefit plan" shall not include any coverage pursuant to a liability insurance policy, workers compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;**
- (4) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and a health**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 service corporation, or any other entity providing a plan of health insurance, health  
19 benefits, or health services; except that, such plan shall not include any coverage pursuant  
20 to a liability insurance policy, workers compensation insurance policy, or medical  
21 payments insurance issued as a supplement to a liability policy;

22 (5) "Pharmacist", an individual licensed as a pharmacist by the board of pharmacy  
23 under chapter 338;

24 (6) "Pharmacist services", products, goods, and services, or any combination of  
25 products, goods, and services, provided as a part of the practice of pharmacy;

26 (7) "Pharmacy", any location where the practice of pharmacy occurs or such  
27 activities are offered or provided by a pharmacist or another acting under the supervision  
28 and authority of a pharmacist, including every premises or other place:

29 (a) Where the practice of pharmacy is offered or conducted;

30 (b) Where drugs, chemicals, medicines, any legend drugs under 21 U.S.C. Section  
31 353, prescriptions, or poisons are compounded, prepared, dispensed, or sold or offered for  
32 sale at retail;

33 (c) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any  
34 other symbols, words, or phrases of similar meaning or understanding are used in any  
35 form to advertise retail products or services;

36 (d) Where patient records or other information is maintained for the purpose of  
37 engaging or offering to engage in the practice of pharmacy or to comply with any relevant  
38 laws regulating the acquisition, possession, handling, transfer, sale, or destruction of drugs,  
39 chemicals, medicines, prescriptions, or poisons;

40 (8) "Pharmacy benefit manager", an entity that contracts with a pharmacy on  
41 behalf of health carriers or any health benefit plan sponsored by the state or a political  
42 subdivision of the state.

43 2. Effective January 1, 2021, to conduct business in this state, a pharmacy benefit  
44 manager shall be licensed by the department. To initially obtain a license or renew a  
45 license, a pharmacy benefit manager shall submit to the department:

46 (1) A nonrefundable fee not to exceed five hundred dollars;

47 (2) A copy of the licensee's corporate charter, articles of incorporation, or other  
48 charter document; and

49 (3) A completed licensure form adopted by the department containing:

50 (a) The name and address of the licensee; and

51 (b) The name, address, and official position of an employee who will serve as the  
52 primary contact for the department.

53           **3. The licensee shall inform the department, by any means acceptable by the**  
54 **department, of any change in the information required by this subsection within thirty**  
55 **days of the change. Failure to timely inform the department of a change shall result in a**  
56 **penalty against the licensee in the amount of fifty dollars.**

57           **4. Upon receipt of a completed licensure form and the licensure fee, the department**  
58 **shall issue a license. The license may be in paper or electronic form and shall clearly**  
59 **indicate the expiration date of the licensure. Licenses shall be nontransferable.**  
60 **Notwithstanding any provision of law to the contrary, the licensure form and license shall**  
61 **be public records.**

62           **5. The license shall be initially renewed in accordance with a schedule prescribed**  
63 **by the department and shall thereafter be subject to renewal on a biennial basis. The**  
64 **department shall adopt by rule an initial licensure fee not to exceed five hundred dollars**  
65 **and a renewal fee not to exceed five hundred dollars, both of which shall be nonrefundable.**

66           **6. All documents, materials, or other information, and copies thereof, in the**  
67 **possession or control of the department that are obtained by or disclosed to the department**  
68 **or any other person in the course of an application, examination, or investigation made**  
69 **pursuant to this act shall be confidential by law and privileged, and shall not be subject to**  
70 **the Missouri sunshine act. This provision shall only apply to disclosure of said confidential**  
71 **documents by the department and shall not create any privilege in favor of any other**  
72 **party.**

73           **7. The director may promulgate all necessary rules and regulations for the**  
74 **administration of this section. Any rule or portion of a rule, as that term is defined in**  
75 **section 536.010, that is created under the authority delegated in this section shall become**  
76 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
77 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
78 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
79 **the effective date, or to disapprove and annul a rule are subsequently held**  
80 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
81 **after August 28, 2020, shall be invalid and void.**

82           **8. (1) There is hereby established in the office of the state treasurer a fund to be**  
83 **known as the "Pharmacy Benefit Manager Fund", which shall consist of moneys collected**  
84 **under this section. The state treasurer shall be the custodian of the fund. In accordance**  
85 **with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund**  
86 **shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely**  
87 **for the administration of this section.**

88           **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**  
89 **remaining in the fund at the end of the biennium shall not revert to the credit of the**  
90 **general revenue fund.**

91           **(3) The state treasurer shall invest moneys in the fund in the same manner as other**  
92 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
93 **to the fund.**

94           **9. (1) This section shall apply to any contract or health benefit plan issued,**  
95 **renewed, recredentialed, amended, or extended after January 1, 2021.**

96           **(2) A contract existing on the date of licensure of the pharmacy benefit manager**  
97 **shall comply with the requirements of this section as a condition of licensure for the**  
98 **pharmacy benefit manager.**

99           **(3) Nothing in this act is intended or shall be construed to be in conflict with**  
100 **existing relevant federal law.**

✓