Bill Summary
2nd Session of the 58th Legislature

Bill No.:	**SB 1324**
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Author:	**Sen. McCortney**
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Bill Analysis

SB 1324 provides that a pharmacy benefit manager (PBM) contract shall not prohibit or penalize a pharmacy for disclosing to an individual information regarding the existence and clinical efficacy of a generic equivalent that would be less expensive to the enrollee under his or her health plan prescription drug benefit or outside his or her health plan prescription drug benefit, without requesting any health plan reimbursement, than the drug that was originally prescribed nor shall it prohibit or penalize a pharmacy for selling to an individual a drug that is therapeutically equivalent to the prescribed medication. Additionally, that for each of the PBM's contracts or other relationships with a health plan, the PBM is required to publish on an easily accessible website the health plan formulary and timely notification of formulary changes and product exclusions.

The measure also provides that beginning November 1, 2022, a PBM must provide the Insurance Department with a report containing the aggregate dollar amount of all rebates that the PBM received from all pharmaceutical manufacturers, all administrative fees received, issuer administrative service fees that the PBM received, all rebates that the PBM received from all pharmaceutical manufacturers and did not pass through to health plans or health insurers, and all administrative fees that the PBM received from all pharmaceutical manufacturers and did not pass through to health plans or health insurers. The report shall also show the aggregate retained rebate percentage as well as the highest aggregate retained rebate percentage, the lowest aggregate retained rebate percentage, and the mean aggregate retained rebate percentage. The measure directs the Insurance Department to publish this information in a timely manner provided that such information shall be made available in a form that does not disclose the identity of a specific health plan or the identity of a specific manufacturer. The Department shall not publish any identifying information for a particular health plan.

The measure also provides that an enrollee's defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to 100% of all rebates received. The Insurance Department shall fine any PBM violating this provision no less than $100.00 and no more than $5,000.00 per violation. A PBM may not publish information regarding the actual amount of rebates a PBM receives on a product or therapeutic class of products, manufacturer, or pharmacy-specific basis. Additionally, the measure provides that an enrollee's defined cost sharing for each prescription drug shall be calculated at the point of sale 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. Any PBM violating this provision shall be subject to the penalty described above.

Additionally, the measure adds PBMs to the list of entities on a pharmacy and therapeutics committee. A majority of P&T committee members shall be practicing physicians, practicing pharmacists, or both, and shall be licensed. P&T members must also practice a diverse set of clinical specialties that adequately represent the needs of the health plan enrollees and meet at least quarterly. The committee shall conduct itself in a transparent manner and formulary decisions and rationale shall be documented in writing. Additionally, if the committee relies on a third party to provide cost-effectiveness analysis or research for a Medicaid Managed Care organization's prescription drug policy, the committee shall disclose the third party to the Governor, President Pro Tempore of the Senate, and Speaker of the House. The committee shall also provide a process through which patients and providers potentially impacted by the third party's analysis or research may provide input to the P&T committee.

Each specialist on the committee shall participate in formulary decisions regarding each therapeutic area and specific condition as it relates to their field. Decisions made by the committee shall be based on scientific evidence, standards of practice, and nationally accepted treatment guidelines. Additionally, the committee shall determine whether a particular drug has a clinically meaningful therapeutic advantage over other drugs and shall evaluate and analyze treatment protocols and procedures related to the health plan's formulary at least annually. Management activities shall also be reviewed by the committee and make a formulary decision on a new U.S. Food and Drug Administration-approved drug within 90 days of the drug's approval.

The measure provides that information or records that would have the potential to compromise the financial, competitive, or proprietary nature of information about a specific drug or class of drugs, or a specific product or therapeutic class of products shall not be considered a "record" as it relates to the Oklahoma Open Records Act.

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