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AS AMENDED

By: Howard

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[ prescription drug pricing - pharmacy benefits
manager - contracts - actions - codification -
effective date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2021, Section 6960, as amended by Section 1, Chapter 38, O.S.L. 2022 (36 O.S. Supp. 2023, Section 6960), is amended to read as follows:

Section 6960. For purposes of the Patient's Right to Pharmacy
Choice Act:

1. "Health insurer" means any corporation, association, benefit society, exchange, partnership or individual licensed by the Oklahoma Insurance Code;

2. "Health insurer payor" means a health insurance company, health maintenance organization, union, hospital and medical services organization or any entity providing or administering a self-funded health benefit plan;

1 3. "Mail-order pharmacy" means a pharmacy licensed by this
2 state that primarily dispenses and delivers covered drugs via common
3 carrier;

4 4. "Pharmacy benefits manager" or "PBM" means a person that
5 performs pharmacy benefits management and any other person acting
6 for such person under a contractual or employment relationship in
7 the performance of pharmacy benefits management for a managed-care
8 company, nonprofit hospital, medical service organization, insurance
9 company, third-party payor or a health program administered by a
10 department of this state;

11 5. "Provider" means a pharmacy, as defined in Section 353.1 of
12 Title 59 of the Oklahoma Statutes or an agent or representative of a
13 pharmacy;

14 6. "Retail pharmacy network" means retail pharmacy providers
15 contracted with a PBM in which the pharmacy primarily fills and
16 sells prescriptions via a retail, storefront location;

17 7. "Rural service area" means a five-digit ZIP code in which
18 the population density is less than one thousand (1,000) individuals
19 per square mile;

20 8. "Spread pricing" means a prescription drug pricing model
21 utilized by a pharmacy benefits manager in which the PBM charges a
22 health benefit plan a contracted price for prescription drugs that
23 differs from the amount the PBM directly or indirectly pays the
24 pharmacy or pharmacist for providing pharmacy services;

1 9. "Suburban service area" means a five-digit ZIP code in which
2 the population density is between one thousand (1,000) and three
3 thousand (3,000) individuals per square mile; ~~and~~

4 10. "Urban service area" means a five-digit ZIP code in which
5 the population density is greater than three thousand (3,000)
6 individuals per square mile;

7 11. "340B drug pricing" means the pricing agreement established
8 under Section 602 of the Veterans Health Care Act of 1992, Pub. L.
9 No. 102-585; and

10 12. "340B entity" means a covered entity as that term is
11 defined in 42 U.S.C., Section 256b.

12 SECTION 2. AMENDATORY 36 O.S. 2021, Section 6962, as
13 last amended by Section 1, Chapter 293, O.S.L. 2023 (36 O.S. Supp.
14 2023, Section 6962), is amended to read as follows:

15 Section 6962. A. The Attorney General shall review and approve
16 retail pharmacy network access for all pharmacy benefits managers
17 (PBMs) to ensure compliance with Section 6961 of this title.

18 B. A PBM, or an agent of a PBM, shall not:

19 1. Cause or knowingly permit the use of advertisement,
20 promotion, solicitation, representation, proposal or offer that is
21 untrue, deceptive or misleading;

22 2. Charge a pharmacist or pharmacy a fee related to the
23 adjudication of a claim including without limitation a fee for:

24 a. the submission of a claim,

1 b. enrollment or participation in a retail pharmacy
2 network, or

3 c. the development or management of claims processing
4 services or claims payment services related to
5 participation in a retail pharmacy network;

6 3. Reimburse a pharmacy or pharmacist in the state an amount
7 less than the amount that the PBM reimburses a pharmacy owned by or
8 under common ownership with a PBM for providing the same covered
9 services. The reimbursement amount paid to the pharmacy shall be
10 equal to the reimbursement amount calculated on a per-unit basis
11 using the same generic product identifier or generic code number
12 paid to the PBM-owned or PBM-affiliated pharmacy;

13 4. Deny a provider the opportunity to participate in any
14 pharmacy network at preferred participation status if the provider
15 is willing to accept the terms and conditions that the PBM has
16 established for other providers as a condition of preferred network
17 participation status;

18 5. Deny, limit or terminate a provider's contract based on
19 employment status of any employee who has an active license to
20 dispense, despite probation status, with the State Board of
21 Pharmacy;

22 6. Retroactively deny or reduce reimbursement for a covered
23 service claim after returning a paid claim response as part of the
24 adjudication of the claim, unless:

- 1 a. the original claim was submitted fraudulently, or
2 b. to correct errors identified in an audit, so long as
3 the audit was conducted in compliance with Sections
4 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

5 7. Fail to make any payment due to a pharmacy or pharmacist for
6 covered services properly rendered in the event a PBM terminates a
7 provider from a pharmacy benefits manager network;

8 8. Conduct or practice spread pricing, as defined in Section 1
9 of this act, in this state; ~~or~~

10 9. Charge a pharmacist or pharmacy a fee related to
11 participation in a retail pharmacy network including but not limited
12 to the following:

- 13 a. an application fee,
14 b. an enrollment or participation fee,
15 c. a credentialing or re-credentialing fee,
16 d. a change of ownership fee, or
17 e. a fee for the development or management of claims
18 processing services or claims payment services;

19 10. Discriminate, offer lower reimbursement, or impose any
20 separate terms upon a provider on the basis that a provider
21 participates in 340B drug pricing;

22 11. Require a provider to reverse, resubmit, or clarify a 340B
23 drug pricing claim after the initial adjudication unless these
24

actions are in normal course of pharmacy business and not related to
340B drug pricing;

12. Require a billing modifier to indicate that the drug or
claim is a 340B drug pricing claim, unless the drug or claim is
being billed to the Oklahoma Medicaid Program;

13. Modify a patient copayment on the basis that the provider
of the patient participates in 340B drug pricing;

14. Exclude a provider from a network on the basis that the
provider participates in 340B drug pricing;

15. Establish or set network adequacy requirements based on
340B drug pricing participation by a provider;

16. Prohibit a 340B entity or a pharmacy under contract with a
340B entity from participating in the network of the PBM on the
basis of participation in 340B drug pricing; or

17. Base the drug formulary or drug coverage decisions upon the
340B drug pricing status of a drug, including price or availability,
or whether a dispensing pharmacy participates in 340B drug pricing.

C. The prohibitions under this section shall apply to contracts
between pharmacy benefits managers and providers for participation
in retail pharmacy networks.

1. A PBM contract shall:

a. not restrict, directly or indirectly, any pharmacy
that dispenses a prescription drug from informing, or
penalize such pharmacy for informing, an individual of

1 any differential between the individual's out-of-
2 pocket cost or coverage with respect to acquisition of
3 the drug and the amount an individual would pay to
4 purchase the drug directly, ~~and~~

5 b. ensure that any entity that provides pharmacy benefits
6 management services under a contract with any such
7 health plan or health insurance coverage does not,
8 with respect to such plan or coverage, restrict,
9 directly or indirectly, a pharmacy that dispenses a
10 prescription drug from informing, or penalize such
11 pharmacy for informing, a covered individual of any
12 differential between the individual's out-of-pocket
13 cost under the plan or coverage with respect to
14 acquisition of the drug and the amount an individual
15 would pay for acquisition of the drug without using
16 any health plan or health insurance coverage, and

17 c. eliminate discriminatory contracting as it relates to:

18 (1) transferring the benefit of 340B drug pricing
19 savings from a 340B entity to another entity,
20 including without limitation pharmacy benefits
21 managers, private insurers, and managed care
22 organizations,

- 1 (2) offering a lower reimbursement rate for drugs
2 purchased under 340B drug pricing than for the
3 same drug not purchased under 340B drug pricing,
4 (3) refusal to cover drug purchases utilizing 340B
5 drug pricing,
6 (4) refusal to allow providers who utilize 340B drug
7 pricing to participate in networks, and
8 (5) charging more than fair market value or seeking
9 profit sharing in exchange for services involving
10 340B drug pricing.

11 2. A pharmacy benefits manager's contract with a provider shall
12 not prohibit, restrict or limit disclosure of information to the
13 Attorney General, law enforcement or state and federal governmental
14 officials investigating or examining a complaint or conducting a
15 review of a pharmacy benefits manager's compliance with the
16 requirements under the Patient's Right to Pharmacy Choice Act.

17 D. A pharmacy benefits manager shall:

18 1. Establish and maintain an electronic claim inquiry
19 processing system using the National Council for Prescription Drug
20 Programs' current standards to communicate information to pharmacies
21 submitting claim inquiries;

22 2. Fully disclose to insurers, self-funded employers, unions or
23 other PBM clients the existence of the respective aggregate
24

1 prescription drug discounts, rebates received from drug
2 manufacturers and pharmacy audit recoupments;

3 3. Provide the Attorney General, insurers, self-funded employer
4 plans and unions unrestricted audit rights of and access to the
5 respective PBM pharmaceutical manufacturer and provider contracts,
6 plan utilization data, plan pricing data, pharmacy utilization data
7 and pharmacy pricing data;

8 4. Maintain, for no less than three (3) years, documentation of
9 all network development activities including but not limited to
10 contract negotiations and any denials to providers to join networks.
11 This documentation shall be made available to the Attorney General
12 upon request;

13 5. Report to the Attorney General, on a quarterly basis for
14 each health insurer payor, on the following information:

- 15 a. the aggregate amount of rebates received by the PBM,
- 16 b. the aggregate amount of rebates distributed to the
17 appropriate health insurer payor,
- 18 c. the aggregate amount of rebates passed on to the
19 enrollees of each health insurer payor at the point of
20 sale that reduced the applicable deductible,
21 copayment, coinsure or other cost sharing amount of
22 the enrollee,
- 23 d. the individual and aggregate amount paid by the health
24 insurer payor to the PBM for pharmacy services

1 itemized by pharmacy, drug product and service
2 provided, and
3 e. the individual and aggregate amount a PBM paid a
4 provider for pharmacy services itemized by pharmacy,
5 drug product and service provided; and

6 6. Make drug formulary and coverage decisions based on the
7 normal course of business of the PBM.

8 SECTION 3. AMENDATORY Section 3, Chapter 38, O.S.L.
9 2022, as amended by Section 3, Chapter 293, O.S.L. 2023 (36 O.S.
10 Supp. 2023, Section 6966.1), is amended to read as follows:

11 Section 6966.1. A. The Insurance Commissioner may censure,
12 suspend, revoke or refuse to issue or renew a license of or levy a
13 civil penalty against any person licensed under the insurance laws
14 of this state for any violation of the Patient's Right to Pharmacy
15 Choice Act, Section 6958 et seq. of this title.

16 B. 1. If the Attorney General finds, after notice and
17 opportunity for hearing, that a pharmacy benefits manager (PBM)
18 violated one or more provisions of the Patient's Right to Pharmacy
19 Choice Act, the Pharmacy Audit Integrity Act or the provisions of
20 Sections 357 through 360 of Title 59 of the Oklahoma Statutes, the
21 Attorney General may recommend the PBM be censured, his or her
22 license may be suspended or revoked and a penalty or remedy
23 authorized by this act may be imposed. If the Attorney General
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1 makes such recommendation, the Commissioner shall take the
2 recommended action.

3 2. In addition to or in lieu of any censure, suspension or
4 revocation of a license, a PBM may be subject to a civil fine of not
5 less than One Hundred Dollars (\$100.00) and not greater than Ten
6 Thousand Dollars (\$10,000.00) for each violation of the provisions
7 of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit
8 Integrity Act or the provisions of Sections 357 through 360 of Title
9 59 of the Oklahoma Statutes, following notice and an opportunity for
10 a hearing.

11 C. Notwithstanding whether the license of a PBM has been
12 issued, suspended, revoked, surrendered or lapsed by operation of
13 law, the Attorney General is hereby authorized to enforce the
14 provisions of the Patient's Right to Pharmacy Choice Act and impose
15 any penalty or remedy authorized under the act against a PBM under
16 investigation for or charged with a violation of the Patient's Right
17 to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, the
18 provisions of Sections 357 through 360 of Title 59 of the Oklahoma
19 Statutes or any provision of the insurance laws of this state.

20 D. Each day that a PBM conducts business in this state without
21 a license from the Insurance Department shall be deemed a violation
22 of the Patient's Right to Pharmacy Choice Act.
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1 E. 1. All hearings conducted by the Office of the Attorney
2 General pursuant to this section shall be public and held in
3 accordance with the Administrative Procedures Act.

4 2. Hearings shall be held at the office of the Attorney General
5 or any other place the Attorney General may deem convenient.

6 3. The Attorney General, upon written request from a PBM
7 affected by the hearing, shall cause a full stenographic record of
8 the proceedings to be made by a competent court reporter. This
9 record shall be at the expense of the PBM.

10 4. The ordinary fees and costs of the hearing examiner
11 appointed pursuant to Section 319 of this title may be assessed by
12 the hearing examiner against the respondent unless the respondent is
13 the prevailing party.

14 F. Any PBM whose license has been censured, suspended, revoked
15 or denied renewal or who has had a fine levied against him or her
16 shall have the right of appeal from the final order of the Attorney
17 General, pursuant to Section 318 et seq. of Title 75 of the Oklahoma
18 Statutes.

19 G. If the Attorney General determines, based upon an
20 investigation of complaints, that a PBM has engaged in violations of
21 the provisions of the Patient's Right to Pharmacy Choice Act with
22 such frequency as to indicate a general business practice, and that
23 the PBM should be subjected to closer supervision with respect to
24 those practices, the Attorney General may require the PBM to file a

1 report at any periodic interval the Attorney General deems
2 necessary.

3 H. All claims processed by a PBM on behalf of a provider that
4 participates in 340B drug pricing or on behalf of a 340B entity
5 shall be deemed final at the point of adjudication.

6 SECTION 4. AMENDATORY 59 O.S. 2021, Section 353.1, as
7 amended by Section 6, Chapter 288, O.S.L. 2022 (59 O.S. Supp. 2023,
8 Section 353.1), is amended to read as follows:

9 Section 353.1. For the purposes of the Oklahoma Pharmacy Act:

10 1. "Accredited program" means those seminars, classes,
11 meetings, work projects, and other educational courses approved by
12 the Board for purposes of continuing professional education;

13 2. "Act" means the Oklahoma Pharmacy Act;

14 3. "Administer" means the direct application of a drug, whether
15 by injection, inhalation, ingestion or any other means, to the body
16 of a patient;

17 4. "Assistant pharmacist" means any person presently licensed
18 as an assistant pharmacist in the State of Oklahoma by the Board
19 pursuant to Section 353.10 of this title and for the purposes of the
20 Oklahoma Pharmacy Act shall be considered the same as a pharmacist,
21 except where otherwise specified;

22 5. "Board" or "State Board" means the State Board of Pharmacy;

23 6. "Certify" or "certification of a prescription" means the
24 review of a filled prescription by a licensed pharmacist or a

1 licensed practitioner with dispensing authority to confirm that the
2 medication, labeling and packaging of the filled prescription are
3 accurate and meet all requirements prescribed by state and federal
4 law. For the purposes of this paragraph, "licensed practitioner"
5 shall not include optometrists with dispensing authority;

6 7. "Chemical" means any medicinal substance, whether simple or
7 compound or obtained through the process of the science and art of
8 chemistry, whether of organic or inorganic origin;

9 8. "Compounding" means the combining, admixing, mixing,
10 diluting, pooling, reconstituting or otherwise altering of a drug or
11 bulk drug substance to create a drug. Compounding includes the
12 preparation of drugs or devices in anticipation of prescription drug
13 orders based on routine, regularly observed prescribing patterns;

14 9. "Continuing professional education" means professional,
15 pharmaceutical education in the general areas of the socioeconomic
16 and legal aspects of health care; the properties and actions of
17 drugs and dosage forms; and the etiology, characteristics and
18 therapeutics of the diseased state;

19 10. "Dangerous drug", "legend drug", "prescription drug" or "Rx
20 Only" means a drug:

21 a. for human use subject to 21 U.S.C. 353(b)(1), or

22 b. is labeled "Prescription Only", or labeled with the

23 following statement: "Caution: Federal law restricts
24

1 this drug except for use by or on the order of a
2 licensed veterinarian.”;

3 11. “Director” means the Executive Director of the State Board
4 of Pharmacy unless context clearly indicates otherwise;

5 12. “Dispense” or “dispensing” means the interpretation,
6 evaluation, and implementation of a prescription drug order
7 including the preparation and delivery of a drug or device to a
8 patient or a patient’s agent in a suitable container appropriately
9 labeled for subsequent administration to, or use by, a patient.

10 Dispense includes sell, distribute, leave with, give away, dispose
11 of, deliver or supply;

12 13. “Dispenser” means a retail pharmacy, hospital pharmacy, a
13 group of chain pharmacies under common ownership and control that do
14 not act as a wholesale distributor, or any other person authorized
15 by law to dispense or administer prescription drugs, and the
16 affiliated warehouses or distributions of such entities under common
17 ownership and control that do not act as a wholesale distributor.
18 For the purposes of this paragraph, “dispenser” does not mean a
19 person who dispenses only products to be used in animals in
20 accordance with 21 U.S.C. 360b(a) (5);

21 14. “Distribute” or “distribution” means the sale, purchase,
22 trade, delivery, handling, storage, or receipt of a product, and
23 does not include the dispensing of a product pursuant to a
24 prescription executed in accordance with 21 U.S.C. 353(b) (1) or the

1 dispensing of a product approved under 21 U.S.C. 360b(b); provided,
2 taking actual physical possession of a product or title shall not be
3 required;

4 15. "Doctor of Pharmacy" means a person licensed by the Board
5 to engage in the practice of pharmacy. The terms "pharmacist",
6 "D.Ph.", and "Doctor of Pharmacy" shall be interchangeable and shall
7 have the same meaning wherever they appear in the Oklahoma Statutes
8 and the rules promulgated by the Board;

9 16. "Drug outlet" means all manufacturers, repackagers,
10 outsourcing facilities, wholesale distributors, third-party
11 logistics providers, pharmacies, and all other facilities which are
12 engaged in dispensing, delivery, distribution or storage of
13 dangerous drugs;

14 17. "Drugs" means all medicinal substances and preparations
15 recognized by the United States Pharmacopoeia and National
16 Formulary, or any revision thereof, and all substances and
17 preparations intended for external and/or internal use in the cure,
18 diagnosis, mitigation, treatment or prevention of disease in humans
19 or animals and all substances and preparations, other than food,
20 intended to affect the structure or any function of the body of a
21 human or animals;

22 18. "Drug sample" means a unit of a prescription drug packaged
23 under the authority and responsibility of the manufacturer that is
24

1 not intended to be sold and is intended to promote the sale of the
2 drug;

3 19. "Durable medical equipment" has the same meaning as
4 provided by Section 2 of this act;

5 20. "Filled prescription" means a packaged prescription
6 medication to which a label has been affixed which contains such
7 information as is required by the Oklahoma Pharmacy Act;

8 21. "Hospital" means any institution licensed as a hospital by
9 this state for the care and treatment of patients, or a pharmacy
10 operated by the Oklahoma Department of Veterans Affairs;

11 22. "Licensed practitioner" means an allopathic physician,
12 osteopathic physician, podiatric physician, dentist, veterinarian or
13 optometrist licensed to practice and authorized to prescribe
14 dangerous drugs within the scope of practice of such practitioner;

15 23. "Manufacturer" or "virtual manufacturer" means with respect
16 to a product:

17 a. a person that holds an application approved under 21
18 U.S.C. 355 or a license issued under 42 U.S.C. 262 for
19 such product, or if such product is not the subject of
20 an approved application or license, the person who
21 manufactured the product,

22 b. a co-licensed partner of the person described in
23 subparagraph a that obtains the product directly from
24

- 1 a person described in this subparagraph or
2 subparagraph a of this paragraph,
- 3 c. an affiliate of a person described in subparagraph a
4 or b who receives the product directly from a person
5 described in this subparagraph or in subparagraph a or
6 b of this paragraph, or
- 7 d. a person who contracts with another to manufacture a
8 product;

9 24. "Manufacturing" means the production, preparation,
10 propagation, compounding, conversion or processing of a device or a
11 drug, either directly or indirectly by extraction from substances of
12 natural origin or independently by means of chemical or biological
13 synthesis and includes any packaging or repackaging of the
14 substances or labeling or relabeling of its container, and the
15 promotion and marketing of such drugs or devices. The term
16 "manufacturing" also includes the preparation and promotion of
17 commercially available products from bulk compounds for resale by
18 licensed pharmacies, licensed practitioners or other persons;

19 25. "Medical gas" means those gases including those in liquid
20 state upon which the manufacturer or distributor has placed one of
21 several cautions, such as "Rx Only", in compliance with federal law;

22 26. "Medical gas order" means an order for medical gas issued
23 by a licensed prescriber;

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1 27. "Medical gas distributor" means a person licensed to
2 distribute, transfer, wholesale, deliver or sell medical gases on
3 drug orders to suppliers or other entities licensed to use,
4 administer or distribute medical gas and may also include a patient
5 or ultimate user;

6 28. "Medical gas supplier" means a person who dispenses medical
7 gases on drug orders only to a patient or ultimate user;

8 29. "Medicine" means any drug or combination of drugs which has
9 the property of curing, preventing, treating, diagnosing or
10 mitigating diseases, or which is used for that purpose;

11 30. "Nonprescription drugs" means medicines or drugs which are
12 sold without a prescription and which are prepackaged for use by the
13 consumer and labeled in accordance with the requirements of the
14 statutes and regulations of this state and the federal government.
15 Such items shall also include medical and dental supplies and
16 bottled or nonbulk chemicals which are sold or offered for sale to
17 the general public if such articles or preparations meet the
18 requirements of the Federal Food, Drug and Cosmetic Act, 21
19 U.S.C.A., Section 321 et seq.;

20 31. "Outsourcing facility" including "virtual outsourcing
21 facility" means a facility at one geographic location or address
22 that:

23 a. is engaged in the compounding of sterile drugs,
24

1 b. has elected to register as an outsourcing facility,
2 and

3 c. complies with all requirements of 21 U.S.C. 353b;

4 32. "Package" means the smallest individual saleable unit of
5 product for distribution by a manufacturer or repackager that is
6 intended by the manufacturer for ultimate sale to the dispenser of
7 such product. For the purposes of this paragraph, "individual
8 saleable unit" means the smallest container of a product introduced
9 into commerce by the manufacturer or repackager that is intended by
10 the manufacturer or repackager for individual sale to a dispenser;

11 33. "Person" means an individual, partnership, limited
12 liability company, corporation or association, unless the context
13 otherwise requires;

14 34. "Pharmacist-in-charge" or "PIC" means the pharmacist
15 licensed in this state responsible for the management control of a
16 pharmacy and all other aspects of the practice of pharmacy in a
17 licensed pharmacy as defined by Section 353.18 of this title;

18 35. "Pharmacy" means a place regularly licensed by the Board of
19 Pharmacy in which prescriptions, drugs, medicines, chemicals and
20 poisons are compounded or dispensed or such place where pharmacists
21 practice the profession of pharmacy, or a pharmacy operated by the
22 Oklahoma Department of Veterans Affairs;

23 36. "Pharmacy technician", "technician", "Rx tech", or "tech"
24 means a person issued a Technician permit by the State Board of

1 Pharmacy to assist the pharmacist and perform nonjudgmental,
2 technical, manipulative, non-discretionary functions in the
3 prescription department under the immediate and direct supervision
4 of a pharmacist;

5 37. "Poison" means any substance which when introduced into the
6 body, either directly or by absorption, produces violent, morbid or
7 fatal changes, or which destroys living tissue with which such
8 substance comes into contact;

9 38. "Practice of pharmacy" means:

- 10 a. the interpretation and evaluation of prescription
11 orders,
- 12 b. the compounding, dispensing, administering and
13 labeling of drugs and devices, except labeling by a
14 manufacturer, repackager or distributor of
15 nonprescription drugs and commercially packaged legend
16 drugs and devices,
- 17 c. the participation in drug selection and drug
18 utilization reviews,
- 19 d. the proper and safe storage of drugs and devices and
20 the maintenance of proper records thereof,
- 21 e. the responsibility for advising by counseling and
22 providing information, where professionally necessary
23 or where regulated, of therapeutic values, content,
24 hazards and use of drugs and devices,

- 1 f. the offering or performing of those acts, services,
2 operations or transactions necessary in the conduct,
3 operation, management and control of a pharmacy, or
4 g. the provision of those acts or services that are
5 necessary to provide pharmaceutical care;

6 39. "Preparation" means an article which may or may not contain
7 sterile products compounded in a licensed pharmacy pursuant to the
8 order of a licensed prescriber;

9 40. "Prescriber" means a person licensed in this state who is
10 authorized to prescribe dangerous drugs within the scope of practice
11 of the person's profession;

12 41. "Prescription" means and includes any order for drug or
13 medical supplies written or signed, or transmitted by word of mouth,
14 telephone or other means of communication:

- 15 a. by a licensed prescriber,
16 b. under the supervision of an Oklahoma licensed
17 practitioner, an Oklahoma licensed advanced practice
18 registered nurse or an Oklahoma licensed physician
19 assistant, or
20 c. by an Oklahoma licensed wholesaler or distributor as
21 authorized in Section 353.29.1 of this title;

22 42. "Product" means a prescription drug in a finished dosage
23 form for administration to a patient without substantial further
24 manufacturing, such as capsules, tablets, and lyophilized products

1 before reconstitution. "Product" does not include blood components
2 intended for transfusion, radioactive drugs or biologics and medical
3 gas;

4 43. "Repackager", including "virtual repackager", means a
5 person who owns or operates an establishment that repacks and
6 relabels a product or package for further sale or distribution
7 without further transaction;

8 44. "Sterile drug" means a drug that is intended for parenteral
9 administration, an ophthalmic or oral inhalation drug in aqueous
10 format, or a drug that is required to be sterile under state and
11 federal law;

12 45. "Supervising physician" means an individual holding a
13 current license to practice as a physician from the State Board of
14 Medical Licensure and Supervision, pursuant to the provisions of the
15 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
16 Act, or the State Board of Osteopathic Examiners, pursuant to the
17 provisions of the Oklahoma Osteopathic Medicine Act, who supervises
18 an advanced practice registered nurse as defined in Section 567.3a
19 of this title, and who is not in training as an intern, resident, or
20 fellow. To be eligible to supervise an advanced practice registered
21 nurse, such physician shall remain in compliance with the rules
22 promulgated by the State Board of Medical Licensure and Supervision
23 or the State Board of Osteopathic Examiners;

1 46. "Supportive personnel" means technicians and auxiliary
2 supportive persons who are regularly paid employees of a pharmacy
3 who work and perform tasks in the pharmacy as authorized by Section
4 353.18A of this title;

5 47. "Third-party logistics provider" including "virtual third-
6 party logistics provider" means an entity that provides or
7 coordinates warehousing, or other logistics services of a product in
8 interstate commerce on behalf of a manufacturer, wholesale
9 distributor, or dispenser of a product but does not take ownership
10 of the product, nor have responsibility to direct the sale or
11 disposition of the product. For the purposes of this paragraph,
12 "third-party logistics provider" does not include shippers and the
13 United States Postal Service;

14 48. "Wholesale distributor" including "virtual wholesale
15 distributor" means a person other than a manufacturer, a
16 manufacturer's co-licensed partner, a third-party logistics
17 provider, or repackager engaged in wholesale distribution as defined
18 by 21 U.S.C. 353(e)(4) as amended by the Drug Supply Chain Security
19 Act;

20 49. "County jail" means a facility operated by a county for the
21 physical detention and correction of persons charged with, or
22 convicted of, criminal offenses or ordinance violations or persons
23 found guilty of civil or criminal contempt;

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1 50. "State correctional facility" means a facility or
2 institution that houses a prisoner population under the jurisdiction
3 of the Department of Corrections;

4 51. "Unit dose package" means a package that contains a single
5 dose drug with the name, strength, control number, and expiration
6 date of that drug on the label; ~~and~~

7 52. "Unit of issue package" means a package that provides
8 multiple doses of the same drug, but each drug is individually
9 separated and includes the name, lot number, and expiration date;

10 53. "340B drug pricing" means the pricing agreement established
11 under Section 602 of the Veterans Health Care Act of 1992, Pub. L.
12 No. 102-585; and

13 54. "340B entity" means a covered entity as that term is
14 defined in 42 U.S.C., Section 256b.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 355.5 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 A manufacturer shall not:

19 1. Deny, prohibit, condition, discriminate against, refuse, or
20 withhold 340B drug pricing for, or otherwise limit the dispensing,
21 purchase, ordering, delivery, or receipt of, a drug purchased by a
22 340B entity, including, but not limited to, a drug purchased to be
23 dispensed or administered under a contract pharmacy agreement; or
24

1 2. Prohibit a pharmacy from contracting or participating with a
2 340B entity by denying 340B pricing on, or the pharmacy's access to,
3 a drug that is manufactured by a manufacturer based on a pharmacy's
4 relationship with a 340B entity.

5 SECTION 6. This act shall become effective November 1, 2024.

6 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
7 February 20, 2024 - DO PASS AS AMENDED
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