

**BILL SUMMARY**  
1<sup>st</sup> Session of the 59<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB2853</b>
<b>Version:</b>	<b>CS</b>
<b>Request Number:</b>	
<b>Author:</b>	<b>Rep. Wallace</b>
<b>Date:</b>	<b>2/14/2023</b>
<b>Impact:</b>	<b>1 additional FTE, see below</b>

**Research Analysis**

The committee substitute for HB 2853, creates the Oklahoma Rebate Pass-Through and PBM Meaningful Transparency Act of 2023 by expanding on the definitions for pharmacy benefits management and pharmacy benefits manager as it relates to Pharmacy Audit Integrity Act. The measure expands on the required items for a licensure application by adding information on the business structure of the PBM, and a signed statement indicating that the PBM has not been convicted of a felony and has not violated any of the requirements of the Oklahoma Pharmacy Act and the Patient's Right to Pharmacy Choice Act.

The measure amends the Patient's Right to Pharmacy Choice Act to add definitions for, administrative fees, aggregate retained rebate percentage, defined cost sharing, formulary, generic equivalent, health insurer administrative service fees, health plan, pharmacy and therapeutics committee, price protection rebate, and rebates.

The measure clarifies that spread pricing, either directly or through an intermediary is prohibited. The measure prohibits pharmacy benefits managers from penalizing pharmacies for informing an individual of the efficacy of a generic drug that is less expensive than a name brand alternative or selling an individual a therapeutically equivalent drug that would be less expensive. Pharmacy benefits managers must also give a report to the Insurance Commissioner on the first day of each year containing aggregate information regarding rebates and administrative fees the PBM received from the prior year and such information must be publicly displayed online by the Insurance Department.

Pharmacy benefits managers will also publish the formulary and subsequent changes for each of their contracts or relationships with a health plan. All information regarding specific identities, prices, or rebates must be kept confidential.

The pharmacy and therapeutics (P&T) committee will consist of a diverse majority of practicing physicians and pharmacists licensed in Oklahoma. The committee must meet on a quarterly basis at minimum and review the formulary annually in a transparent process detailed in the measure.

The committee will provide the pharmacy benefits manager with a report listing the percentage of prescription drugs on formulary by types of utilization management, the rates of adherence to and abandonment of medicines by therapeutic area, and recommendations for improved adherence and management practices.

The measure requires that an enrollee's defined cost sharing for each prescription drug will be at least 85 percent of all rebates received or in connection with dispensing or administration. The measure additionally provides penalties for violations of this requirement and confidentiality guidelines.

Prepared By: Matthew Brenchley

**Fiscal Analysis**

From Oklahoma Insurance Dept:

It appears there are quite a few items added that could result in more violations than we are experiencing now. In addition to some reports that OID will have to ensure are redacted and shared to the website. With that said, we have a starting estimate of this legislation resulting in us needing to hire possibly 1 FTE with a cost of about \$80-100k with benefits per year, to OID's budget.

Prepared By: Stacy Johnson

**Other Considerations**

None.