

BILL SUMMARY
2nd Session of the 59th Legislature

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| Bill No.: | HB 3376 |
| Version: | FA1 |
| Request Number: | 10738 |
| Author: | Rep. McEntire |
| Date: | 3/12/2024 |
| Impact: | \$0 |

Research Analysis

The floor substitute to House Bill 3376 adds "covered entity" and "pharmacy benefits management" to the list of terms used for purposes of the Patient's Right to Pharmacy Choice Act. The measure stipulates that nothing in the Patient's Right to Pharmacy Choice Act prohibits the Attorney General from requesting and obtaining detailed data, including raw data, in response to the information provided by a Pharmacy Benefits Manager (PBM) in the quarterly reports required by this section.

The Attorney General has the authority to alter the frequency of the reports required by this section at their sole discretion. The measure empowers the Attorney General to promulgate rules to implement the provisions of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title 59 of the Oklahoma Statutes.

It mandates that PHI held by PBMs must be provided to the Attorney General upon request to conduct investigations into potential violations of state laws and regulations related to PBMs. However, disclosure of PHI should be limited to what is necessary to investigate and enforce state law. All disclosures must comply with applicable federal and state privacy laws, including HIPAA, and any information obtained for an investigation must be handled according to privacy laws and regulations. Unauthorized disclosure of PHI obtained during an investigation is strictly prohibited and subject to legal penalties.

Furthermore, if the Attorney General finds that a PBM has not fully cooperated with an investigation or inquiry related to compliance with relevant laws. In that case, they may instruct the Insurance Commissioner to censure the PBM or suspend or revoke its license. Additionally, the Attorney General can impose civil or administrative fines for each violation, with each day of non-compliance constituting a separate violation.

The measure also establishes the "Attorney General's Pharmacy Benefits Manager Enforcement Revolving Fund" in the State Treasury. The fund is designated to support the Office of the Attorney General in its enforcement activities related to the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and relevant provisions of Title 59 of the Oklahoma Statutes.

CHANGES IN FLOOR SUBSTITUTE VERSION AND COMMITTEE SUBSTITUTE:

The floor substitute changes the minimum civil or administrative fine from \$1,000 to \$100.

Prepared By: Matthew Brenchley

Fiscal Analysis

HB 3376 modifies the definition of pharmacy benefits manager (PBM), as used in the Patient's Right to Pharmacy Choice Act, to include a person or entity acting on behalf of a PBM. The Attorney General (AG) is granted power to enforce the provisions of the Act, eliminating authority by the Patients Right to Pharmacy Choice Commission. The AG is able to obtain detailed data from a PBM concerning the details submitted in quarterly reports, including protected health information for the purpose of conducting investigation. If a PBM fails to cooperate with an investigation or proven to violate the provisions of the Patient's Right to Pharmacy Choice Act, the AG may direct the Insurance Commissioner to suspend or revoke a PBM's license, impose a civil fine ranging from One Hundred Dollars (\$100) to Ten Thousand Dollars (\$10,000) per violation, or both.

This measure establishes the Attorney General's Pharmacy Benefits Manager Enforcement Revolving Fund. All fines, penalties, and restitutions collected by the AG due to violations of the Patient's Right to Pharmacy Choice Act are to be deposited into the Fund. Costs of investigation, litigation, and attorney fees are to be retained by the Office of the Attorney General and the remaining funds are to be distributed to injured parties. As a result, this measure is anticipated to have a fiscally neutral impact on the state budget and appropriations.

The floor amendment does not affect the fiscal impact of this measure.

Prepared By: Alexandra Ladner, House Fiscal Staff

Other Considerations

None.