

AMENDMENTS TO LB1073

Introduced by Slama, 1.

1 1. Strike sections 18, 19, 20, and 21 and insert the following new
2 sections:

3 Sec. 21. Section 44-4603, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 44-4603 For purposes of the Pharmacy Benefit Manager Licensure and
6 Regulation Act:

7 (1) Auditing entity means a pharmacy benefit manager or any person
8 that represents a pharmacy benefit manager in conducting an audit for
9 compliance with a contract between the pharmacy benefit manager and a
10 pharmacy;

11 (2) Claims processing service means an administrative service
12 performed in connection with the processing and adjudicating of a claim
13 relating to a pharmacist service that includes:

14 (a) Receiving a payment for a pharmacist service; or

15 (b) Making a payment to a pharmacist or pharmacy for a pharmacist
16 service;

17 (3) Covered person means a member, policyholder, subscriber,
18 enrollee, beneficiary, dependent, or other individual participating in a
19 health benefit plan;

20 (4) Director means the Director of Insurance;

21 (5) Health benefit plan means a policy, contract, certificate, plan,
22 or agreement entered into, offered, or issued by a health carrier or
23 self-funded employee benefit plan to the extent not preempted by federal
24 law to provide, deliver, arrange for, pay for, or reimburse any of the
25 costs of a physical, mental, or behavioral health care service;

26 (6) Health carrier has the same meaning as in section 44-1303;

27 (7) Other prescription drug or device service means a service other

1 than a claims processing service, provided directly or indirectly,
2 whether in connection with or separate from a claims processing service,
3 including, but not limited to:

4 (a) Negotiating a rebate, discount, or other financial incentive or
5 arrangement with a drug company;

6 (b) Disbursing or distributing a rebate;

7 (c) Managing or participating in an incentive program or arrangement
8 for a pharmacist service;

9 (d) Negotiating or entering into a contractual arrangement with a
10 pharmacist or pharmacy;

11 (e) Developing and maintaining a formulary;

12 (f) Designing a prescription benefit program; or

13 (g) Advertising or promoting a service;

14 (8) Pharmacist has the same meaning as in section 38-2832;

15 (9) Pharmacist service means a product, good, or service or any
16 combination thereof provided as a part of the practice of pharmacy;

17 (10) Pharmacy has the same meaning as in section 71-425;

18 (11)(a) Pharmacy benefit manager means a person, business, or
19 entity, including a wholly or partially owned or controlled subsidiary of
20 a pharmacy benefit manager, that provides a claims processing service or
21 other prescription drug or device service for a health benefit plan to a
22 covered person who is a resident of this state; and

23 (b) Pharmacy benefit manager does not include:

24 (i) A health care facility licensed in this state;

25 (ii) A health care professional licensed in this state;

26 (iii) A consultant who only provides advice as to the selection or
27 performance of a pharmacy benefit manager; or

28 (iv) A health carrier to the extent that it performs any claims
29 processing service or other prescription drug or device service
30 exclusively for its enrollees; and

31 (12) Plan sponsor has the same meaning as in section 44-2702.

1 Sec. 22. Section 44-4604, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 44-4604 (1) The Pharmacy Benefit Manager Licensure and Regulation
4 Act applies to any contract or health benefit plan issued, renewed,
5 recredentialed, amended, or extended on or after January 1, 2023,
6 including any ~~health carrier that performs a~~ claims processing service or
7 other prescription drug or device service performed through a third
8 party.

9 (2) As a condition of licensure, any contract in existence on the
10 date a pharmacy benefit manager receives its license to do business in
11 this state shall comply with the requirements of the act.

12 (3) Nothing in the act is intended or shall be construed to conflict
13 with existing relevant federal law.

14 Sec. 25. Section 68-956, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 68-956 (1) The department shall (a) enter ÷ ~~(1) Enter~~ into a
17 multistate purchasing pool, (b) ÷ (2) negotiate directly with
18 manufacturers or labelers, ÷ or (c) (3) contract with a pharmacy benefit
19 manager for negotiated discounts or rebates for all prescription drugs
20 under the medical assistance program in order to achieve the lowest
21 available price for such drugs under such program.

22 (2) Any contract under the Medicaid Prescription Drug Act with a
23 pharmacy benefit manager or a managed care organization using a pharmacy
24 benefit manager shall require any pharmacy benefit manager that is a
25 party or otherwise subject to the contract to comply with the Pharmacy
26 Benefit Manager Licensure and Regulation Act.

27 Sec. 36. The Revisor of Statutes shall assign section 28 of this
28 act to Chapter 76, article 2.

29 Sec. 37. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and
30 15 of this act become operative on January 1, 2025. Sections 16, 17, 18,
31 20, 21, 22, 23, 24, 25, 29, 31, 32, 34, and 39 of this act become

1 operative three calendar months after the adjournment of this legislative
2 session. The other sections of this act become operative on their
3 effective date.

4 Sec. 38. Sections 44-19,116 and 76-2,122, Reissue Revised Statutes
5 of Nebraska, and sections 76-2,121, 81-885.01, 81-885.24, and 87-302,
6 Revised Statutes Cumulative Supplement, 2022, are repealed.

7 Sec. 39. Sections 44-7,115, 44-1308, 44-5807, 48-2706, 68-956,
8 76-856, 81-885.10, and 81-885.55, Reissue Revised Statutes of Nebraska,
9 and sections 44-4603, 44-604, and 81-885.17, Revised Statutes Cumulative
10 Supplement, 2022, are repealed.

11 2. On page 20, strike lines 1 through 4 and insert the following new
12 subdivision:

13 "(b) Self-funded and in compliance with:

14 (i) Sections 44-7601 to 44-7618, except subdivisions (1) and (2) of
15 section 44-7606; and

16 (ii) The federal Employee Retirement Income Security Act of 1974, as
17 such act existed on January 1, 2024."

18 3. On page 22, after line 22 insert the following new subsections:

19 "(3) If a right-to-list home sale agreement as defined in section
20 81-885.01 is recorded in this state, it shall not provide actual or
21 constructive notice of such agreement against an otherwise bona fide
22 purchaser or creditor.

23 (4) Any assignment or transfer of the right to provide any service
24 under a real estate service agreement recorded prior to the operative
25 date of this section that would otherwise be in violation of this section
26 is void and unenforceable without a written notice provided to and a
27 written agreement by each party to such service agreement."

28 4. On page 28, strike lines 3 through 12 and insert the following
29 new subdivisions:

30 "(16)(a) Right-to-list home sale agreement means an agreement:

31 (i) By the owner of residential real estate to provide another

1 person with the exclusive right to list such residential real estate for
2 sale at a future date in exchange for monetary consideration or an
3 equivalent to monetary consideration; and

4 (ii)(A) That states that the agreement runs with the land or
5 otherwise purports to bind future owners of such residential real estate;
6 or

7 (B) That purports to be a lien, encumbrance, or other real property
8 security interest; and

9 (b) Right-to-list home sale agreement does not include any lien,
10 encumbrance, or other real property security interest expressly
11 authorized under the laws of this state, including any:

12 (i) Home warranty or similar product that covers the cost of
13 maintenance of a major home system or appliance for a fixed period;

14 (ii) Insurance contract;

15 (iii) Option or right of refusal to purchase the residential real
16 estate;

17 (iv) Contract for deed or purchase;

18 (v) Declaration created in the formation of a common-interest
19 community or an amendment to such declaration;

20 (vi) Maintenance or repair agreement entered by a homeowners'
21 association in a common-interest community;

22 (vii) Mortgage or trust deed loan or a commitment to make or receive
23 a mortgage or trust deed loan;

24 (viii) Security agreement under the Uniform Commercial Code relating
25 to the sale or rental of any personal property or fixture;

26 (ix) Water, sewer, electrical, telephone, cable, or other regulated
27 utility service provider; or

28 (x) Right granted by the Nebraska Construction Lien Act;".

29 5. Renumber the remaining sections and correct internal references
30 accordingly.