STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1628 By: Howard

AS INTRODUCED

An Act relating to prescription drug pricing; amending 36 O.S. 2021, Section 6960, as amended by Section 1, Chapter 38, O.S.L. 2022, 6962, as last amended by Section 1, Chapter 293, O.S.L. 2023, and Section 3, Chapter 38, O.S.L. 2022, as amended by Section 3, Chapter 293, O.S.L. 2023 (36 O.S. Supp. 2023, Sections 6960, 6962, and 6966.1), which relate to the Patient's Right to Pharmacy Choice Act; defining terms; increasing actions to be prohibited by pharmacy benefits manager; adding requirements to pharmacy benefits manager contracts; providing certain claims be deemed final upon adjudication; amending 59 O.S. 2021, Section 353.1, as amended by Section 6, Chapter 288, O.S.L. 2022 (59 O.S. Supp. 2023, Section 353.1), which relates to the Oklahoma Pharmacy Act; defining terms; prohibiting prescription drug manufacturers from taking certain actions against certain entities; providing for codification; and providing an effective date.

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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. the submission of a claim,

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

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

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

4. Deny a provider the opportunity to participate in any pharmacy network at preferred participation status if the provider

is willing to accept the terms and conditions that the PBM has established for other providers as a condition of preferred network participation status;

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

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

a. the original claim was submitted fraudulently, or

b. to correct errors identified in an audit, so long as the audit was conducted in compliance with Sections 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

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

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

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

a. an application fee,

b. an enrollment or participation fee,

c. a credentialing or re-credentialing fee,

d. a change of ownership fee, or

e. a fee for the development or management of claims processing services or claims payment services;

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

11. Require a provider to reverse, resubmit, or clarify a 340B drug pricing claim after the initial adjudication unless these 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 any differential between the individual's out-of-pocket cost or coverage with respect to acquisition of the drug and the amount an individual would pay to purchase the drug directly, ~~and~~

b. ensure that any entity that provides pharmacy benefits management services under a contract with any such health plan or health insurance coverage does not, with respect to such plan or coverage, restrict, directly or indirectly, a pharmacy that dispenses a prescription drug from informing, or penalize such pharmacy for informing, a covered individual of any differential between the individual's out-of-pocket cost under the plan or coverage with respect to acquisition of the drug and the amount an individual

would pay for acquisition of the drug without using any health plan or health insurance coverage, and

c. eliminate discriminatory contracting as it relates to:

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

(2) offering a lower reimbursement rate for drugs purchased under 340B drug pricing than for the same drug not purchased under 340B drug pricing,

(3) refusal to cover drug purchases utilizing 340B drug pricing,

(4) refusal to allow providers who utilize 340B drug pricing to participate in networks, and

(5) charging more than fair market value or seeking profit sharing in exchange for services involving 340B drug pricing.

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

D. A pharmacy benefits manager shall:

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

2. Fully disclose to insurers, self-funded employers, unions or other PBM clients the existence of the respective aggregate prescription drug discounts, rebates received from drug manufacturers and pharmacy audit recoupments;

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

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

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

a. the aggregate amount of rebates received by the PBM,

b. the aggregate amount of rebates distributed to the appropriate health insurer payor,

c. the aggregate amount of rebates passed on to the enrollees of each health insurer payor at the point of sale that reduced the applicable deductible, copayment, coinsure or other cost sharing amount of the enrollee,

d. the individual and aggregate amount paid by the health insurer payor to the PBM for pharmacy services itemized by pharmacy, drug product and service provided, and

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

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

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

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

B. 1. If the Attorney General finds, after notice and opportunity for hearing, that a pharmacy benefits manager (PBM)

violated one or more provisions of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act or the provisions of Sections 357 through 360 of Title 59 of the Oklahoma Statues, the Attorney General may recommend the PBM be censured, his or her license may be suspended or revoked and a penalty or remedy authorized by this act may be imposed. If the Attorney General makes such recommendation, the Commissioner shall take the recommended action.

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

C. Notwithstanding whether the license of a PBM has been issued, suspended, revoked, surrendered or lapsed by operation of law, the Attorney General is hereby authorized to enforce the provisions of the Patient's Right to Pharmacy Choice Act and impose any penalty or remedy authorized under the act against a PBM under investigation for or charged with a violation of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, the

provisions of Sections 357 through 360 of Title 59 of the Oklahoma Statues or any provision of the insurance laws of this state.

D. Each day that a PBM conducts business in this state without a license from the Insurance Department shall be deemed a violation of the Patient's Right to Pharmacy Choice Act.

E. 1. All hearings conducted by the Office of the Attorney General pursuant to this section shall be public and held in accordance with the Administrative Procedures Act.

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

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

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

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

G. If the Attorney General determines, based upon an investigation of complaints, that a PBM has engaged in violations of the provisions of the Patient's Right to Pharmacy Choice Act with such frequency as to indicate a general business practice, and that the PBM should be subjected to closer supervision with respect to those practices, the Attorney General may require the PBM to file a report at any periodic interval the Attorney General deems necessary.

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

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

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

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

2. "Act" means the Oklahoma Pharmacy Act;

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

4. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board

pursuant to Section 353.10 of this title and for the purposes of the Oklahoma Pharmacy Act shall be considered the same as a pharmacist, except where otherwise specified;

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

6. "Certify" or "certification of a prescription" means the review of a filled prescription by a licensed pharmacist or a licensed practitioner with dispensing authority to confirm that the medication, labeling and packaging of the filled prescription are accurate and meet all requirements prescribed by state and federal law. For the purposes of this paragraph, "licensed practitioner" shall not include optometrists with dispensing authority;

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

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

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

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

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

b. is labeled "Prescription Only", or labeled with the following statement: "Caution: Federal law restricts this drug except for use by or on the order of a licensed veterinarian.";

11. "Director" means the Executive Director of the State Board of Pharmacy unless context clearly indicates otherwise;

12. "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order including the preparation and delivery of a drug or device to a patient or a patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispense includes sell, distribute, leave with, give away, dispose of, deliver or supply;

13. "Dispenser" means a retail pharmacy, hospital pharmacy, a group of chain pharmacies under common ownership and control that do not act as a wholesale distributor, or any other person authorized by law to dispense or administer prescription drugs, and the affiliated warehouses or distributions of such entities under common ownership and control that do not act as a wholesale distributor. For the purposes of this paragraph, "dispenser" does not mean a

person who dispenses only products to be used in animals in accordance with 21 U.S.C. 360b(a)(5);

14. "Distribute" or "distribution" means the sale, purchase, trade, delivery, handling, storage, or receipt of a product, and does not include the dispensing of a product pursuant to a prescription executed in accordance with 21 U.S.C. 353(b)(1) or the dispensing of a product approved under 21 U.S.C. 360b(b); provided, taking actual physical possession of a product or title shall not be required;

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

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

17. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and/or internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans

or animals and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human or animals;

18. "Drug sample" means a unit of a prescription drug packaged under the authority and responsibility of the manufacturer that is not intended to be sold and is intended to promote the sale of the drug;

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

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

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

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

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

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

an approved application or license, the person who manufactured the product,

b. a co-licensed partner of the person described in subparagraph a that obtains the product directly from a person described in this subparagraph or subparagraph a of this paragraph,

c. an affiliate of a person described in subparagraph a or b who receives the product directly from a person described in this subparagraph or in subparagraph a or b of this paragraph, or

d. a person who contracts with another to manufacture a product;

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

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

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

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

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

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

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

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

a. is engaged in the compounding of sterile drugs,

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

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

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

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

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

35. "Pharmacy" means a place regularly licensed by the Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed or such place where pharmacists

practice the profession of pharmacy, or a pharmacy operated by the Oklahoma Department of Veterans Affairs;

36. "Pharmacy technician", "technician", "Rx tech", or "tech" means a person issued a Technician permit by the State Board of Pharmacy to assist the pharmacist and perform nonjudgmental, technical, manipulative, non-discretionary functions in the prescription department under the immediate and direct supervision of a pharmacist;

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

38. "Practice of pharmacy" means:

a. the interpretation and evaluation of prescription orders,

b. the compounding, dispensing, administering and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend drugs and devices,

c. the participation in drug selection and drug utilization reviews,

d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,

e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,

f. the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy, or

g. the provision of those acts or services that are necessary to provide pharmaceutical care;

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

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

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

a. by a licensed prescriber,

b. under the supervision of an Oklahoma licensed practitioner, an Oklahoma licensed advanced practice registered nurse or an Oklahoma licensed physician assistant, or

c. by an Oklahoma licensed wholesaler or distributor as authorized in Section 353.29.1 of this title;

42. "Product" means a prescription drug in a finished dosage form for administration to a patient without substantial further manufacturing, such as capsules, tablets, and lyophilized products before reconstitution. "Product" does not include blood components intended for transfusion, radioactive drugs or biologics and medical gas;

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

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

45. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or the State Board of Osteopathic Examiners, pursuant to the provisions of the Oklahoma Osteopathic Medicine Act, who supervises an advanced practice registered nurse as defined in Section 567.3a of this title, and who is not in training as an intern, resident, or

fellow. To be eligible to supervise an advanced practice registered nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners;

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

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

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

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

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

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

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

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

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

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

A manufacturer shall not:

1. Deny, prohibit, condition, discriminate against, refuse, or withhold 340B drug pricing for, or otherwise limit the dispensing,

purchase, ordering, delivery, or receipt of, a drug purchased by a 340B entity, including, but not limited to, a drug purchased to be dispensed or administered under a contract pharmacy agreement; or

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

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

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