



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4450/1
TJD:emw

2017 SENATE BILL 532

November 8, 2017 - Introduced by Senators ERPENBACH and CARPENTER, cosponsored by Representatives KOLSTE, SARGENT, ZAMARRIPA, ANDERSON, BERCEAU, POPE, SUBECK, SPREITZER, CONSIDINE, BILLINGS, HORLACHER, BROSTOFF, FIELDS, HESSELBEIN, VRUWINK, OHNSTAD, HINTZ, YOUNG, SHANKLAND, ZEPNICK, RIEMER, CROWLEY, GENRICH and SINICKI. Referred to Committee on Health and Human Services.

- 1 **AN ACT to amend** 601.43 (1) (a); and **to create** chapter 649 of the statutes;
2 **relating to:** registration of pharmacy benefit managers, granting rule-making
3 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill generally allows the commissioner of insurance to regulate pharmacy benefit managers. A pharmacy benefit manager is an entity that procures prescription drugs at a negotiated rate for dispensation; administers or manages prescription drug benefits; performs mail service pharmacy services; processes pharmacy benefit claims; develops clinical formularies and performs management services; contracts and administers prescription drug rebates; or conducts disease management programs or patient compliance, therapeutic intervention, and generic substitution programs.

The bill prohibits a person, except an insurer already regulated by the commissioner, from performing any activities of a pharmacy benefit manager in this state without first registering with the commissioner. Certain pharmacy benefit managers must be licensed by the Pharmacy Examining Board and registered as a pharmacy benefit manager. If the Pharmacy Examining Board revokes the pharmacy or distributor license for such a pharmacy benefit manager, the commissioner must revoke the pharmacy benefit manager registration. An applicant for registration as a pharmacy benefit manager must file an appropriate application and pay any registration fee set by the commissioner. A registration is valid for one year. The commissioner may refuse to register a pharmacy benefit manager for which a previous registration was suspended or revoked.

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Under the bill, the commissioner, after a hearing, may suspend or revoke a registration of a pharmacy benefit manager if the registered pharmacy benefit manager, or an officer, director, or employee of a registered pharmacy benefit manager does any of the actions specified in the bill. The commissioner may promulgate rules necessary to carry out the intent of pharmacy benefit manager registration. The bill also allows the commissioner to use his or her authority that is granted to regulate insurers to similarly regulate pharmacy benefit managers, including the authority to require reports, conduct examinations, and issue orders.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 601.43 (1) (a) of the statutes is amended to read:

2 601.43 **(1)** (a) *Insurers, other licensees and other persons subject to regulation.*

3 Whenever the commissioner deems it necessary in order to inform himself or herself
4 about any matter related to the enforcement of chs. 600 to 647 and 649, the
5 commissioner may examine the affairs and condition of any licensee ~~or~~, permittee,
6 or registrant under chs. 600 to 647 and 649 or applicant for a license ~~or~~, permit, or
7 registration of any person or organization of persons doing or in process of organizing
8 to do an insurance business in this state, and of any advisory organization serving
9 any of the foregoing in this state.

10 **SECTION 2.** Chapter 649 of the statutes is created to read:

11 **CHAPTER 649**

12 **PHARMACY BENEFIT MANAGERS**

13 **649.01 Definitions.** In this chapter:

14 **(1)** “Pharmacy benefit manager” means an entity that does any of the following:

15 (a) Procures prescription drugs at a negotiated rate for dispensation in this
16 state to an insured.

17 (b) Administers or manages prescription drug benefits provided to an insured.

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1 (c) Performs any of the following services with regard to the administration of
2 pharmacy benefits:

3 1. Mail service pharmacy.

4 2. Claims processing or retail network management and payment of claims to
5 pharmacies for prescription drugs dispensed to an insured.

6 3. Clinical formulary development and management services.

7 4. Prescription drug rebate contracting and administration.

8 5. Patient compliance, therapeutic intervention, and generic substitution
9 programs.

10 6. Disease management programs.

11 (2) "Prescription drug" has the meaning given in s. 450.01 (20).

12 (3) "Registrant" means a pharmacy benefit manager that is registered under
13 this chapter.

14 **649.05 Registration of pharmacy benefit managers.** (1) (a) Except as
15 provided in par. (b), no person may perform any activities of a pharmacy benefit
16 manager in this state without first registering with the commissioner under this
17 chapter.

18 (b) A pharmacy benefit manager who is an insurer with a current certificate
19 of authority issued under s. 601.04 is not required to register under this section.

20 (c) 1. Any pharmacy benefit manager that is required to obtain a license under
21 s. 450.06, 450.065, or 450.071 shall also register under this chapter.

22 2. If the pharmacy examining board revokes a license that had been granted
23 under s. 450.06, 450.065, or 450.071 to a registrant, the registrant shall notify the
24 commissioner of the revocation. The commissioner shall revoke the registration
25 under this chapter.

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1 **(2)** An applicant for registration as a pharmacy benefit manager shall do all
2 of the following:

3 (a) File with the commissioner an application on a form that the commissioner
4 provides.

5 (b) Pay any registration fee set by the commissioner.

6 **(3)** The commissioner shall register any pharmacy benefit manager that meets
7 the requirements of this chapter and any requirements the commissioner requires
8 of applicants. Registration under this section is valid for one year unless registration
9 is suspended or revoked. The commissioner may refuse to register any pharmacy
10 benefit manager for which a previous registration was suspended or revoked.

11 **649.10 Powers of the commissioner.** The commissioner may do any of the
12 following:

13 **(1)** Promulgate rules necessary to carry out the intent of this chapter.

14 **(2)** Use authority granted under ss. 601.41, 601.42, 601.43, 601.44, 601.61,
15 601.62, 601.63, and 601.64 to enforce this chapter.

16 **649.20 Suspension or revocation of registration; penalty.** **(1)** The
17 commissioner, after a hearing, may suspend or revoke the registration of a
18 registrant, if the registrant or an officer, director, or employee of the registrant does
19 any of the following:

20 (a) Knowingly makes or causes to be made a false statement or
21 misrepresentation of a material fact in an application for registration under s.
22 649.05.

23 (b) Obtains or attempts to obtain a registration under s. 649.05 through
24 misrepresentation or fraud.

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1 (c) Misappropriates or converts to the registrant's own use or improperly
2 withholds insurance premiums or contributions held in a fiduciary capacity, except
3 for any interest earnings received by the pharmacy benefit manager and disclosed
4 to the entity with which it has a contract to provide services.

5 (d) Commits fraudulent, coercive, or dishonest practices in the transaction of
6 business as a pharmacy benefit manager.

7 (e) Has a license or registration suspended, revoked, or not renewed in any
8 other state, district, territory, or province that impacts business conducted in this
9 state.

10 (f) Knowingly violates a requirement of this chapter or a rule promulgated
11 under this chapter.

12 **(2)** Any person who performs activities of a pharmacy benefit manager in this
13 state without a valid registration under s. 649.05 is subject to a forfeiture of \$500 for
14 each day of violation.

15 **SECTION 3. Effective date.**

16 (1) This act takes effect on the first day of the 7th month beginning after
17 publication.

18 (END)