

## Louisiana Administrative Code

### Title 46 – Professional and Occupational Standards

#### Part LIII: Pharmacists

#### Chapter 30. Pharmacy Benefit Managers

##### §3001. Definitions

- A. The following terms shall have the meaning ascribed to them in this Section:
1. “Health plan” means an individual or group plan or program, which is established by contract, certificate, law, plan, policy, subscriber agreement, or by any other method and which is entered into, issued, or offered for the purpose of arranging for, delivering, paying for, providing, or reimbursing any of the costs of health or medical care, including pharmacy services, drugs, or devices.
  2. “Pharmacy benefit management plan” and “pharmacy benefits program” means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services, drugs or devices to individuals who reside in or are employed in Louisiana.
  3. “Pharmacy benefit manager” or “PBM” means any person or business who administers the prescription drug or device program of one or more health plans on behalf of a third party in accordance with a pharmacy benefit program. This term includes any agent or representative of a pharmacy benefit manager hired or contracted by the pharmacy benefit manager to assist in the administering of the drug program and any wholly or partially owned or controlled subsidiary of a pharmacy benefit manager.
  4. “Audited financial statement” – the financial statement and related disclosures prepared by an independent certified public accountant in accordance with United States Generally Accepted Accounting Principles (GAAP) of the specific entity or licensee intending to operate or operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR

##### §3003. Pharmacy Benefit Manager Permit

- A. A pharmacy benefit manager, as defined at R.S. 40:2863, shall obtain and maintain a pharmacy benefit manager permit from the board prior to conducting in business in Louisiana if it administers, develops, maintains, performs, or provides one or more of the following pharmacy services enumerated in R.S. 40:2868 in the state or that affects one or more beneficiaries of a pharmacy benefit management plan, as defined at R.S. 40:2863, administered by the pharmacy benefit manager:
- (1) Adjudication of appeals or grievances related to prescription drug coverage.
  - (2) Disease management programs. For purposes of this Subsection, “disease management program” means a program adopted to guide and care for beneficiaries with chronic health problems to improve the quality of health care provided to them and prevent future need for medical resources by using an integrated comprehensive approach.
  - (3) Drug formularies. For purposes of this Subsection, “drug formulary” means a list of prescription medications or pharmaceutical products developed and approved by each health plan that may be dispensed to a beneficiary through participating pharmacies. A drug formulary may also be referred to as a “preferred drug list”, “prior authorization list”, or “pharmacopeia”.
  - (4) Drug regimen reviews. For purposes of this Subsection, “drug regimen review” means third party review of all medications a beneficiary is currently using, whether prescribed or over the counter, and administered by any method.
  - (5) Prescription drug management programs. For purposes of this Subsection, “prescription drug management program” means a program developed and designed to administer the prescription

- 53 drug benefit as part of a health plan, and as part of such administration a PBM may contract with  
 54 pharmacies for implementation and dispensing drugs in accordance with the program.  
 55 (6) Processing of prior authorization requests. For purposes of this Subsection, "processing of prior  
 56 authorization requests" means making a determination regarding payment coverage based on an  
 57 advance approval request submitted by a physician or other healthcare provider before a specific  
 58 procedure, service, device, supply, or medication is delivered to the beneficiary.  
 59 (7) Quality care dosing services. For purposes of this Subsection, "quality care dosing services"  
 60 means electronically checking prescription medications before they are filled at the pharmacy to  
 61 ensure that the quantity and dosage is consistent with the recommendations of the United States  
 62 Food and Drug Administration and others.  
 63 (8) Step therapy procedures. For purposes of this Subsection, "step therapy procedure" means  
 64 protocols and policies that establish a specific sequence in which prescription drugs for a medical  
 65 condition are approved for coverage by a health plan for a beneficiary which generally requires  
 66 cheaper drugs to be used before more costly drugs. Step therapy may also be referred to as "fail  
 67 first" protocol.  
 68 (9) Utilization management and utilization reviews. For purposes of this Subsection, "utilization  
 69 management" and "utilization review" mean third party review and approval of appropriateness  
 70 and necessity of care that a healthcare provider has indicated for a beneficiary prior to delivery and  
 71 coverage of such care.  
 72 (10) Any other act, service, operation, or transaction incidental to or forming a part of the  
 73 compounding, filling, dispensing, exchanging, giving, offering for sale, or selling drugs,  
 74 medicines, poisons, or devices in this state by pharmacists or pharmacies, pursuant to a  
 75 prescription or an order of physicians, dentists, veterinarians, or other licensed practitioners,  
 76 requiring, involving, or employing the science or art of any branch of the pharmacy profession,  
 77 study, or training.  
 78 B. A pharmacy benefit manager permit shall authorize the permit holder to administer pharmacy benefit  
 79 management services.  
 80 C. The board shall not issue a pharmacy benefit manager permit to any person or other entity which has  
 81 not yet registered with the Louisiana Secretary of State to conduct business within the state.  
 82 D. A pharmacy benefit manager permit is not transferable from the original owner. The permit shall not  
 83 be subject to sale, assignment or other transfer, voluntary or involuntary. Moreover, in the event the  
 84 ownership of the pharmacy benefit manager changes by 50 percent or more after the initial issuance of  
 85 the permit, the ownership will be deemed sufficiently different as to require a new pharmacy benefit  
 86 manager permit. The continued operation of a pharmacy benefit manager permit after its ownership  
 87 has changed by more than 50 percent shall constitute sufficient basis for the board to issue a finding for  
 88 the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 40:2865.

90 AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

91 HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR

### 93 **§3005. Permitting Procedures**

- 94 A. Application for Initial Issuance of Permit  
 95 1. The board shall develop an application form suitable for the pharmacy benefit manager permit.  
 96 The board may revise that application form on its own initiative in order to collect the information  
 97 it deems necessary to properly evaluate an applicant.  
 98 2. The application shall include copies of the following documents:  
 99 a. Governance documents, including Articles of Incorporation, Articles of Association,  
 100 partnership agreements, trade name certificates, trust agreements, shareholder agreements,  
 101 and all amendments to such documents.  
 102 b. The applicant's standard generic contract template which it uses for contracts entered into by  
 103 the applicant and pharmacies or pharmacy services administrative organizations in this state  
 104 in the administration of pharmacy benefits for healthcare insurers, providers, or payors.  
 105 c. An audited financial statement for the applicant's previous fiscal year.

- 106 3. The board shall not process applications received by facsimile, or that are incomplete, or  
 107 submitted with the incorrect fee.  
 108 4. Once received by the board, an application for the permit shall expire one year thereafter.  
 109 5. In the event any information contained in the application or accompanying documents changes  
 110 after being submitted to the board and before the issuance of the permit, the applicant shall  
 111 immediately notify the board in writing and provide corrected information.  
 112 6. The applicant may be required to personally appear before the board or any of its committees prior  
 113 to any decision on the permit application.  
 114 7. Upon approval of the application, the board shall issue the pharmacy benefit manager permit to the  
 115 applicant.  
 116 B. Application for Renewal of Permit  
 117 1. All pharmacy benefit manager permits shall expire two years after the date of its initial issuance  
 118 and the renewals shall expire every two years thereafter on that anniversary date.  
 119 2. The board shall not process applications received by facsimile, or that are incomplete.  
 120 3. In the event the pharmacy benefit manager does not submit a properly completed renewal  
 121 application to the board prior to the expiration of the permit, the permit shall be rendered null and  
 122 void. A pharmacy benefit manager shall not operate with an expired permit. The continued  
 123 operation of a pharmacy benefit manager with an expired permit shall constitute sufficient basis  
 124 for the board to issue a finding for the operation of a pharmacy benefit manager without a valid  
 125 permit, in violation of R.S. 40:2865.  
 126 4. A pharmacy benefit manager permit not renewed by 30 days after the expiration date shall be  
 127 automatically terminated by the board.  
 128 C. Application for Reinstatement of Terminated, Suspended, or Revoked Permit  
 129 1. The applicant shall complete the application form for this specific purpose supplied by the board  
 130 2. Upon the receipt of a properly completed application form, the board staff shall refer the  
 131 application to the board's reinstatement committee for its consideration and shall notify the  
 132 applicant of the time and place for the committee meeting.  
 133 D. Maintenance of Permit  
 134 1. A pharmacy benefit manager permit shall be valid for the entity to whom it is issued and shall not  
 135 be subject to sale, assignment or other transfer, voluntary or involuntary.  
 136 2. Upon receipt of a written request and payment of the fee authorized in R.S. 37:1184, the board  
 137 shall issue a duplicate or replacement permit to the applicant; however, such duplicate or  
 138 replacement permit shall not serve or be used as an additional or second permit.  
 139 E. Permanent Closure of Permit  
 140 1. In the event the pharmacy benefit manager contemplates permanent closure of the pharmacy  
 141 benefit manager business, the owner of the permit shall notify the board, in writing, 10 days prior  
 142 to the anticipated date of closure and surrender its permit.

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 144 *Is the Board concerned about the retention or disposition of any records pertaining to patients or*  
 145 *pharmacies held by a PBM exiting the state, and if so, do you wish to require any notice to the*  
 146 *Board about such matters?*  
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149 HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR  
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### 151 §3007. Reporting Requirements

- 152 A. Initial Report  
 153 1. An application for the initial issuance of a pharmacy benefit manager permit shall include an  
 154 audited financial statement for the applicant's previous fiscal year  
 155 B. Annual Reports  
 156 1. A pharmacy benefit manager shall submit an audited financial statement no later than 90 days  
 157 after the end of their fiscal year.

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2. A pharmacy benefit manager shall submit an operational activity report no later than 90 days after the end of their fiscal year including but not limited to the following information:
  - a. A list of the insurers, providers, or payors with which the pharmacy benefit manager had an agreement during the preceding fiscal year, to include names and addresses.
  - b. The total number of contracts with entities doing business in the state.
  - c. A list of any acquisitions of Louisiana pharmacies or other entities completed during the previous fiscal year.
  - d. The average number of days to pay after submission of a clean claim, both nationally and in Louisiana, for the previous fiscal year.
  - e. The average number of days to pay after re-submission of a clean claim, both nationally and in Louisiana, for the previous fiscal year.
  - f. The claim denial rate as a percentage of total claims, both nationally and in Louisiana.
  - g. The total revenues or fees associated with Louisiana operations during the previous fiscal year.

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